

such cases, the proposed regulations required the filing of an information statement, whereby taxpayers would provide the IRS with most of the information that otherwise would have been provided in a new (g)(2)(i) agreement.

The proposed regulations were intended to relieve the burden of entering into a closing agreement in circumstances where the several liability imposed by § 1.1502-6, in combination with the original (g)(2)(i) agreement, would provide for liability by the acquiring group sufficiently comparable to that provided by a closing agreement. A commentator, who raised questions regarding comparable liability under § 1.1502-6 in such cases, in particular with respect to the interest charge, recommended that the regulations should retain the existing requirement for the acquiring corporation or consolidated group to enter into a new (g)(2)(i) agreement with respect to the dual consolidated loss. Although the IRS and Treasury believe that § 1.1502-6 provides an independent assurance of several liability, the recommendation to retain the existing requirement for a new (g)(2)(i) agreement has been adopted in these final regulations. The IRS and Treasury have concluded that the intended reduction in administrative burden can be accomplished through the elimination of the requirement to enter into a closing agreement in the cases specified in the proposed regulations. Moreover, with the retention of the requirement to file a new (g)(2)(i) agreement, the requirement in the proposed regulations to file a separate information statement containing essentially the same information has been eliminated. Additional changes have been made to clarify the nature of the new (g)(2)(i) agreement.

The commentators also suggested that any affiliated dual resident corporation or affiliated domestic owner should be permitted to join the acquiring group without causing a triggering event, regardless of whether all members of the consolidated group that filed the original (g)(2)(i) agreement also join the acquiring group, provided that the acquiring group files a new (g)(2)(i) agreement. This suggestion has not been adopted in these final regulations. The final regulations contain a modified description of the types of transactions for which a closing agreement no longer is required, to make clear that all members of an acquired group (or their successors-in-interest) must be members of the acquiring group immediately after the acquisition (*i.e.*, that no member of

the acquired group, or its successor-in-interest, is excluded from the acquiring group due to any applicable restriction such as section 1504(a)(3) or section 1504(c)). However, the IRS and Treasury are continuing to consider this suggestion as well as other alternatives for further reducing the administrative and compliance burdens under the section 1503(d) regulations, and invite additional comments in this regard.

In order to accomplish the intended reduction in administrative burdens promptly, the final regulations are applicable with respect to transactions otherwise constituting triggering events occurring on or after January 1, 2002.

### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations will primarily affect affiliated groups of corporations that also have a foreign affiliate, which tend to be larger businesses. Moreover, the number of taxpayers affected and the average burden are minimal. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

### Drafting Information

The principal authors of these regulations are Kenneth D. Allison and Kathryn T. Holman of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

### List of Subjects

#### 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### 26 CFR Part 602

Reporting and recordkeeping requirements.

### Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 602 are amended as follows:

#### PART 1—INCOME TAXES

■ **1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*  
Section 1.1503-2 also issued under 26 U.S.C. 1502 \* \* \*

■ **Par. 2.** In § 1.1503-2 paragraphs (g)(2) and (h)(1) are amended as follows:

- **1.** Paragraphs (g)(2)(iv)(B)(1) introductory text, and (g)(2)(iv)(B)(1)(i) are revised.
- **2.** Paragraph (g)(2)(iv)(B)(1)(ii) is removed.
- **3.** Paragraphs (g)(2)(iv)(B)(1)(iii) and (iv) are redesignated as paragraphs (g)(2)(iv)(B)(1)(ii) and (iii), respectively.
- **4.** Paragraph (g)(2)(iv)(B)(2) and (g)(2)(iv)(B)(2)(iii) are revised and redesignated as paragraph (g)(2)(iv)(B)(3) and (g)(2)(iv)(B)(3)(iii) respectively.
- **5.** Newly designated paragraph (g)(2)(4)(B)(3)(iii) is revised.
- **6.** New paragraph (g)(2)(iv)(B)(2) is added.
- **7.** Paragraph (g)(2)(iv)(D) is added.
- **8.** Paragraph (h)(1) is amended by adding a sentence at the end of the paragraph.

The revisions and additions read as follows:

#### § 1.1503-2 Dual consolidated loss.

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(iv) \* \* \*

(B) \* \* \* (1) If all the requirements of paragraph (g)(2)(iv)(B)(3) of this section are met, the following events shall not constitute triggering events requiring the recapture of the dual consolidated loss under paragraph (g)(2)(vii) of this section:

(i) An affiliated dual resident corporation or affiliated domestic owner becomes an unaffiliated domestic corporation or a member of a new consolidated group (other than in a transaction described in paragraph (g)(2)(iv)(B)(2)(ii) of this section);

\* \* \* \* \*

(2) If the requirements of paragraph (g)(2)(iv)(B)(3)(iii) of this section are met, the following events shall not constitute triggering events requiring the recapture of the dual consolidated loss under paragraph (g)(2)(vii) of this section—

(i) An unaffiliated dual resident corporation or unaffiliated domestic