

separate statement entitled "THIS IS AN ELECTION UNDER § 1.1502-21(b)(3)(i) TO WAIVE THE ENTIRE CARRYBACK PERIOD PURSUANT TO SECTION 172(b)(3) FOR THE [insert consolidated return year] CNOLs OF THE CONSOLIDATED GROUP OF WHICH [insert name and employer identification number of common parent] IS THE COMMON PARENT". The statement must be filed with the group's income tax return for the consolidated return year in which the loss arises. If the consolidated return year in which the loss arises begins before January 1, 2003, the statement making the election must be signed by the common parent. If the consolidated return year in which the loss arises begins after December 31, 2002, the election may be made in an unsigned statement.

(b)(3)(ii) through (b)(3)(ii)(A) [Reserved]. For further guidance, see § 1.1502-21 (b)(3)(ii) through (b)(3)(ii)(A).

(B) *Acquisition of member from another consolidated group.* If one or more members of a consolidated group becomes a member of another consolidated group, the acquiring group may make an irrevocable election to relinquish, with respect to all consolidated net operating losses attributable to the member, the portion of the carryback period for which the corporation was a member of another group, provided that any other corporation joining the acquiring group that was affiliated with the member immediately before it joined the acquiring group is also included in the waiver. This election is not a yearly election and applies to all losses that would otherwise be subject to a carryback to a former group under section 172. The election must be made in a separate statement entitled "THIS IS AN ELECTION UNDER § 1.1502-21(b)(3)(ii)(B)(2) TO WAIVE THE PRE-[insert first taxable year for which the member (or members) was not a member of another group] CARRYBACK PERIOD FOR THE CNOLs attributable to [insert names and employer identification number of members]." The statement must be filed with the acquiring consolidated group's original income tax return for the year the corporation (or corporations) became a member. If the year in which the corporation (or corporations) became a member begins before January 1, 2003, the statement must be signed by the common parent and each of the members to which it applies. If the year in which the corporation (or corporations) became a member begins after December 31, 2002,

the election may be made in an unsigned statement.

■ **Par. 18.** Section 1.1502-75 is amended by revising paragraph (h)(2) to read as follows:

§ 1.1502-75 Filing of consolidated returns.

(h) * * *
(2) [Reserved]. For further guidance, see § 1.1502-75T(h)(2).

■ **Par. 19.** Section 1.1502-75T is added to read as follows:

§ 1.1502-75T Filing of consolidated returns (temporary).

(a) through (h)(1) [Reserved]. For further guidance, see § 1.1502-75(a) through (h)(1).

(2) *Filing of Form 1122 for first year.* If, under the provisions of § 1.1502-75 (a)(1), a group wishes to file a consolidated return for a taxable year, then a Form 1122 ("Authorization and Consent of Subsidiary Corporation To Be Included in a Consolidated Income Tax Return") must be executed by each subsidiary. For taxable years beginning before January 1, 2003, the executed Forms 1122 must be attached to the consolidated return for the taxable year. For taxable years beginning after December 31, 2002, the group must attach either executed Forms 1122 or unsigned copies of the completed Forms 1122 to the consolidated return. If the group submits unsigned Forms 1122 with its return, it must retain the signed originals in its records in the manner required by § 1.6001-1(e). Form 1122 is not required for a taxable year if a consolidated return was filed (or was required to be filed) by the group for the immediately preceding taxable year.

(h)(3) through (k) [Reserved]. For further guidance, see § 1.1502-75(h)(3) through (k).

■ **Par. 20.** Section 1.1503-2 is amended by revising paragraphs (g)(2)(i), (g)(2)(iv)(B)(3)(iii) and (g)(2)(vi)(B) to read as follows:

§ 1.1503-2 Dual consolidated loss.

(g) * * *
(2) * * *
(i) [Reserved]. For further guidance, see § 1.1503-2T(g)(2)(i).
(iv) * * *
(B) * * *
(3) * * *
(iii) [Reserved]. For further guidance, see § 1.1503-2T(g)(2)(iv)(B)(3)(iii)
(vi) * * *

(B) [Reserved]. For further guidance, see § 1.1503-2T(g)(2)(vi)(B).

■ **Par. 21.** Section 1.1503-2T is added to read as follows:

§ 1.1503-2T Dual consolidated loss (temporary).

(a) through (g)(1) [Reserved]. For further guidance, see § 1.1503-2(a) through (g)(1).

(2) *Elective relief provision—(i) In general.* Paragraph (b) of this section shall not apply to a dual consolidated loss if the consolidated group, unaffiliated dual resident corporation, or unaffiliated domestic owner elects to be bound by the provisions of § 1.1503-2(g)(2) and this paragraph (g)(2). In order to elect relief under § 1.1503-2(g)(2) and this paragraph (g)(2), the consolidated group, unaffiliated dual resident corporation, or unaffiliated domestic owner must attach to its timely filed U.S. income tax return for the taxable year in which the dual consolidated loss is incurred an agreement described in paragraph (g)(2)(i)(A) of this section. The agreement must be signed under penalties of perjury by the person who signs the return. For taxable years beginning after December 31, 2002, the agreement attached to the income tax return of the consolidated group, unaffiliated dual resident corporation or unaffiliated domestic owner pursuant to the preceding sentence may be an unsigned copy. If an unsigned copy is attached to the return, the consolidated group, unaffiliated dual resident corporation, or unaffiliated domestic owner must retain the original in its records in the manner specified by § 1.6001-1(e). The agreement must include the following items, in paragraphs labeled to correspond with the items set forth in paragraphs (g)(2)(i)(A) through (F) of this section:

(A) A statement that the document submitted is an election and an agreement under the provisions of § 1.1503-2(g)(2) of the Income Tax Regulations.

(B) The name, address, identifying number, and place and date of incorporation of the dual resident corporation, and the country or countries that tax the dual resident corporation on its worldwide income or on a residence basis, or, in the case of a separate unit, identification of the separate unit, including the name under which it conducts business, its principal activity, and the country in which its principal place of business is located.

(C) An agreement by the consolidated group, unaffiliated dual resident