

corporation, or unaffiliated domestic owner to comply with all of the provisions of paragraphs (g)(2)(iii) through (vii) of § 1.1503-2 and this section.

(D) A statement of the amount of the dual consolidated loss covered by the agreement.

(E) A certification that no portion of the dual resident corporation's or separate unit's losses, expenses, or deductions taken into account in computing the dual consolidated loss has been, or will be, used to offset the income of any other person under the income tax laws of a foreign country.

(F) A certification that arrangements have been made to ensure that no portion of the dual consolidated loss will be used to offset the income of another person under the laws of a foreign country and that the consolidated group, unaffiliated dual resident corporation, or unaffiliated domestic owner will be informed of any such foreign use of any portion of the dual consolidated loss.

(g)(2)(ii) through (iv)(B)(3)(ii) [Reserved] For further guidance, see § 1.1503-2(g)(2)(ii) through (iv)(B)(3)(ii).

(g)(2)(iv)(B)(3)(iii) The unaffiliated domestic corporation or new consolidated group must file, with its timely filed income tax return for the taxable year in which the event described in § 1.1503-2(g)(2)(iv)(B)(1) or (2) occurs, an agreement described in paragraph (g)(2)(i) of this section (new (g)(2)(i) agreement), whereby it assumes the same obligations with respect to the dual consolidated loss as the corporation or consolidated group that filed the original (g)(2)(i) agreement with respect to that loss. The new (g)(2)(i) agreement must be signed under penalties of perjury by the person who signs the return and must include a reference to § 1.1503-2(g)(2)(iv)(B)(3)(iii) or this paragraph (g)(2)(iv)(B)(3)(iii). For taxable years beginning after December 31, 2002, the agreement attached to the return pursuant to the preceding sentence may be an unsigned copy. If an unsigned copy is attached to the return, the corporation or consolidated group must retain the original in its records in the manner specified by § 1.6001-1(e).

(g)(2)(iv)(C) through (vi)(A) [Reserved]. For further guidance, see § 1.1503-2(g)(2)(iv)(C) through (vi)(A).

(B) *Annual certification.* Except as provided in § 1.1503-2(g)(2)(vi)(C), until and unless Form 1120 or the Schedules thereto contain questions pertaining to dual consolidated losses, the consolidated group, unaffiliated dual resident corporation, or unaffiliated domestic owner must file with its income tax return for each of the 15

taxable years following the taxable year in which the dual consolidated loss is incurred a certification that the losses, expenses, or deductions that make up the dual consolidated loss have not been used to offset the income of another person under the tax laws of a foreign country. For taxable years beginning before January 1, 2003, the annual certification must be signed under penalties of perjury by a person authorized to sign the agreement described in paragraph (g)(2)(i) of this section. For taxable years beginning after December 31, 2002, the certification is verified by signing the return with which the certification is filed. The certification for a taxable year must identify the dual consolidated loss to which it pertains by setting forth the taxpayer's year in which the loss was incurred and the amount of such loss. In addition, the certification must warrant that arrangements have been made to ensure that the loss will not be used to offset the income of another person under the laws of a foreign country and that the taxpayer will be informed of any such foreign use of any portion of the loss. If dual consolidated losses of more than one taxable year are subject to the rules of this paragraph (g)(2)(vi)(B), the certifications for those years may be combined in a single document but each dual consolidated loss must be separately identified.

(g)(2)(vii) through (h) [Reserved]. For further guidance, see § 1.1503-2(g)(2)(vi) through (h).

■ **Par. 22.** Section 1.6038B-1 is amended by revising paragraphs (b)(1)(i) and (b)(1)(ii) to read as follows:

§ 1.6038B-1 Reporting of certain transfers to foreign corporations.

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(b)(1)(i) and (ii) [Reserved]. For further guidance, see § 1.6038B-1T(b)(1)(i) and (ii).

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■ **Par. 23.** Section 1.6038B-1T is amended by revising paragraphs (a) through (b)(3) to read as follows:

§ 1.6038B-1T Reporting of certain transactions to foreign corporations (temporary).

(a) [Reserved]. For further guidance, see § 1.6038B-1(a).

(b) *Time and manner of reporting—(1) General—(i) Reporting procedure.* Except for stock or securities qualifying under the special reporting rule of § 1.6038B-1(b)(2), and certain exchanges described in section 354 (listed below), any U.S. person that makes a transfer described in section 6038B(a)(1)(A), 367(d) or (e), is required to report pursuant to section 6038B and

the rules of § 1.6038B-1 and this section and must attach the required information to Form 926, "Return by Transferor of Property to a Foreign Corporation." For special rules regarding cash transfers made in tax years beginning after February 5, 1999, see § 1.6038B-1(b)(3) and (g). For purposes of determining a U.S. transferor that is subject to section 6038B, the rules of § 1.367(a)-1T(c) and § 1.367(a)-3(d) shall apply with respect to a transfer described in section 367(a), and the rules of § 1.367(a)-1T(c) shall apply with respect to a transfer described in section 367(d). Additionally, if in an exchange described in section 354, a U.S. person exchanges stock of a foreign corporation in a reorganization described in section 368(a)(1)(E), or a U.S. person exchanges stock of a domestic or foreign corporation for stock of a foreign corporation pursuant to an asset reorganization described in section 368(a)(1)(C), (D), or (F), that is not treated as an indirect stock transfer under section 367(a), then the U.S. person exchanging stock is not required to report under section 6038B. Notwithstanding any statement to the contrary on Form 926, the form and attachments must be attached to, and filed by the due date (including extensions) of the transferor's income tax return for the taxable year that includes the date of the transfer (as defined in § 1.6038B-1T(b)(4)). For taxable years beginning before January 1, 2003, any attachment to Form 926 required under the rules of this section is filed subject to the transferor's declaration under penalties of perjury on Form 926 that the information submitted is true, correct and complete to the best of the transferor's knowledge and belief. For taxable years beginning after December 31, 2002, Form 926 and any attachments shall be verified by signing the income tax return with which the form and attachments are filed.

(ii) *Reporting by corporate transferor.* For transfers by corporations in taxable years beginning before January 1, 2003, Form 926 must be signed by an authorized officer of the corporation if the transferor is not a member of an affiliated group under section 1504(a)(1) that files a consolidated Federal income tax return and by an authorized officer of the common parent corporation if the transferor is a member of such an affiliated group. For transfers by corporations in taxable years beginning after December 31, 2002, Form 926 shall be verified by signing the income tax return to which the form is attached.