(2) *Wholly-owned subsidiaries.* (i) Each corporation which is a wholly-owned subsidiary of a controlled group of corporations in respect of an election or termination with respect to a particular December 31 shall be deemed to consent to such election or termination (as the case may be). For purposes of this section, a corporation shall be considered to be a wholly-owned subsidiary of a controlled group in respect of an election or termination with respect to a particular December 31 if, on each day falling within the period beginning on the first day of such corporation's taxable year which included such December 31 and ending on the day on which such election or termination is made (or, if such corporation was not in existence on each day of such period, on each day falling within such period during which the corporation was in existence), all the stock of such corporation is owned directly by one or more corporations which are component members of such group (or a successor group) on any December 31 falling within such period.

(ii) Each wholly-owned subsidiary should attach a statement to an income tax return, amended return, or claim for refund filed with its district director for each taxable year which contains a December 31 falling within the period described in the last sentence of subdivision (i) of this subparagraph, stating that an election or termination (as the case may be) is effective for such taxable year and containing the information which would be required to be set forth in a statement of consent to the election or termination filed pursuant to subparagraph (1)(i) of this paragraph. Information on group identification may either be attached to the statement or incorporated by reference to the name, address, taxpayer account number, and taxable year of a component member of the group which has attached such group identification to an income tax return, amended return, or claim for refund filed with the same district director for the taxable year including such date.

(d) *Effect of consent.* Under section 1562(e), any consent to an election under section 1562(a)(1) or a termination under section 1562(c)(1) is deemed to be a consent to the application of section 1562(g)(1) (relating to tolling of statute of limitations on assessment of deficiencies). See § 1.1562–7.

[T.D. 6845, 30 FR 9746, Aug. 5, 1965]

§ 1.1562–4 Election after termination.

(a) *In general.* Under section 1562(d), if a controlled group of corporations has made a valid election under section 1562(a)(1), and such election is terminated by any one of the occurrences described in paragraph (b) of § 1.1562–2, then such group (or any controlled group which is a successor to such group within the meaning of paragraph (c) of § 1.1562–5) is not eligible to make an election under section 1562(a)(1) with respect to any December 31 before the sixth December 31 after the particular December 31 with respect to which such termination was effective. For the particular December 31 with respect to which a termination is effective, see paragraph (c) of § 1.1562–2.

(b) *Example.* The provisions of this section may be illustrated by the following example:

Example. In 1965, a controlled group of corporations makes a valid election under section 1562(a)(1) with respect to December 31, 1964. In 1967, the election is terminated with respect to December 31, 1964, by consent pursuant to paragraph (b)(1) of § 1.1562–2. The group (or any successor group) is not eligible to make another election with respect to any December 31 before December 31, 1970 (i.e., the sixth December 31 after December 31, 1964, the particular December 31 with respect to which such termination was effective). If in this example the election had been terminated with respect to December 31, 1965, instead of December 31, 1964, the group (or any successor group) would not be eligible to make another election with respect to any December 31 before December 31, 1971.

[T.D. 6845, 30 FR 9747, Aug. 5, 1965]

§ 1.1562–5 Continuing and successor controlled groups.

(a) *Controlled group continuing in existence.* For purposes of §§ 1.1561–3 and 1.1562–1 through 1.1562–4:

(1) *Parent-subsidiary group.* A parent-subsidiary controlled group of corporations shall be considered as remaining in existence as long as (i) such group is not considered, under paragraph (c)(3)

of this section, to be a successor controlled group in respect of another controlled group, and (ii) its common parent corporation remains as a common parent and satisfies the requirements of paragraph (a)(2)(i)*(b)* of §1.1563–1 with respect to the ownership of stock of at least one corporation.

(2) *Brother-sister group.* A brother-sister controlled group of corporations shall be considered as remaining in existence as long as the requirements of paragraph (a)(3)(i) of §1.1563–1 continue to be satisfied with respect to at least two corporations, taking into account the stock ownership of only those five or fewer persons whose stock ownership was taken into account with respect to the election under section 1562(a)(1).

(3) *Combined group.* A combined group of corporations shall be considered as remaining in existence as long as (i) the brother-sister controlled group of corporations referred to in paragraph (a)(4)(i) of §1.1563–1 in respect of such combined group remains in existence (within the meaning of subparagraph (2) of this paragraph), and (ii) at least one such corporation is a common parent of a parent-subsidiary controlled group of corporations referred to in such paragraph (a)(4)(i).

(4) *Insurance group.* If, by reason of paragraph (a)(5)(i) of §1.1563–1, two or more insurance companies subject to taxation under section 802 are treated as an insurance group separate from any corporations which are members of a controlled group described in paragraph (a) (2), (3), or (4) of §1.1563–1, such insurance group shall be considered as remaining in existence as long as (i) the controlled group described in paragraph (a) (2), (3), or (4) of such section, as the case may be, remains in existence (within the meaning of subparagraph (1), (2), or (3) of this paragraph), and (ii) there are at least two insurance companies which satisfy the requirements of paragraph (a)(5)(i) of such section.

(b) *Controlled group no longer in existence*—(1) *General.* Except as provided in subparagraph (3) of this paragraph, a controlled group of corporations is considered as going out of existence with respect to a December 31 if such group ceases to remain in existence under the principles of paragraph (a) of this section during the calendar year ending on such date.

(2) *Examples.* The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples, in which each corporation referred to uses the calendar year as its taxable year:

Example (1). Corporation P was organized on January 1, 1964, and acquired all the stock of corporation S–1 on February 1, 1964, and all the stock of corporation S–2 on March 1, 1965. On April 1, 1965, P sold all its S–1 stock to the public. Beginning on February 1, 1964, P is the common parent corporation of a parent-subsidiary controlled group of corporations. Under paragraph (a)(1) of this section, the controlled group remains in existence throughout the remainder of 1964 and throughout 1965 even though after April 1, 1965, P satisfies the stock ownership requirements of paragraph (a)(2)(i) *(b)* of §1.1563–1 only with respect to the stock of S–2, a corporation which was not a member of the group at the time the group was formed, and even though S–1 ceased to be a member of the group after the group was formed. Accordingly, if the controlled group makes a valid election under section 1562(a)(1) with respect to December 31, 1964, such election will remain in effect with respect to December 31, 1965, unless terminated under section 1562(c) (1), (2), or (3). Moreover, if such election were made and subsequently terminated with respect to December 31, 1964, the group would not be eligible (by reason of section 1562(d)) to make an election under section 1562(a)(1) with respect to December 31, 1965.

Example (2). Assume the same facts as in example (1) except that corporation S–2 is a franchised corporation as defined in section 1563(f)(4) for its 1965 taxable year. On December 31, 1965, S–2 is treated as an excluded member of the parent-subsidiary controlled group of which P is the common parent. See section 1563(b)(2)(E). Nevertheless, such controlled group is considered as remaining in existence throughout 1965.

Example (3). Assume the same facts as in example (1) except that P sold its S–1 stock on February 28, 1965, instead of April 1, 1965. Under the principles of paragraph (a)(1) of this section, the parent-subsidiary controlled group ceases to remain in existence on February 28, 1965. Accordingly, under subparagraph (1) of this paragraph, such group is considered as going out of existence with respect to December 31, 1965. Thus, if the group makes a valid election under section 1562(a)(1) with respect to December 31, 1964, such election terminates with respect to December 31, 1965. Moreover, the new controlled group of corporations consisting of P and S–2 is not precluded (by reason of section

1562(d)) from making an election under section 1562(a)(1) with respect to December 31, 1965.

Example (4). Smith, an individual, owns 80 percent of the only class of stock of corporations W and X on each day of 1966 and 1967. W, in turn, owns 80 percent of the only class of stock of corporation Y on each day of 1966. On April 15, 1967, X purchases 80 percent of the only class of corporation Z and on April 30, 1967, W sells all its stock in Y. Under paragraph (a)(3) of this section, the combined group remains in existence throughout 1966 and 1967 since (i) the brother-sister controlled group of corporations referred to in paragraph (a)(4)(i) of §1.1563–1 in respect of such combined group remains in existence, and (ii) at least one corporation is a common parent of a parent-subsidiary controlled group referred to in such paragraph.

Example (5). Assume the same facts as in example (4) except that Y and Z are life insurance companies subject to taxation under section 802 of the Code. Further assume that throughout 1966 and 1967 Y owns all the stock of corporation S, and Z owns all the stock of corporation T. S and T are life insurance companies subject to taxation under section 802. Before April 15, 1967, under paragraph (a)(5)(i) of §1.1563–1, Y and S are treated as an insurance group of corporations. After April 30, 1967, under paragraph (a)(4) of this section, Z and T are treated as an insurance group which remains in existence throughout 1966 and 1967, since the combined group remains in existence within the meaning of paragraph (a)(3) of this section throughout 1966 and 1967, and there are at all times at least two insurance companies which satisfy the requirements of paragraph (a)(5)(i) of §1.1563–1. (However, after April 30, 1967, Y and S cease to be members of the combined group and are considered to be a new controlled group of corporations.)

Example (6). Jones, an individual, owns all the stock of corporations M and N on each day of 1966. On February 1, 1967, he gives all the stock of M to his 18-year-old son who continues to hold the M stock throughout the remainder of 1967. Since Jones (or his son) owns, or is considered as owning under paragraph (b)(6)(i) of §1.1563–3, all the stock of M and N on each day of 1967, under paragraph (a)(2) of this section the brother-sister controlled group consisting of M and N remains in existence throughout 1967.

(3) *Special rule.* If:

(i) Under subparagraph (1) of this paragraph, a controlled group of corporations would (without regard to this subparagraph) be considered as going out of existence with respect to a December 31 because two or more corporations cease to be members of such group during the calendar year ending on such date,

(ii) Under paragraph (c) of this section, there is no successor group in respect of such group, and

(iii) At least two of such corporations are considered to be component members of such group on such December 31 by reason of the additional member rule of paragraph (b)(3) of §1.1563–1,

then such group shall be considered as going out of existence with respect to the December 31 immediately succeeding such December 31. For example, assume that corporations P and S file their returns on the basis of the calendar year. P owns all the stock of S from January 1, 1965, through December 1, 1965. On December 2, 1965, P sells the stock of S to the public. Under subparagraph (1) of this paragraph the controlled group consisting of P and S would (without regard to this subparagraph) be considered as going out of existence with respect to December 31, 1965, because P and S ceased to be members of the group on December 2, 1965. However, since there is no successor group in respect of the controlled group, and P and S are considered to be component members of such group on December 31, 1965, by reason of the additional member rule of paragraph (b)(3) of §1.1563–1, under this subparagraph the group is considered as going out of existence with respect to December 31, 1966, and not December 31, 1965.

(c) *Successor groups*—(1) *Transactions involving a former owner or owners.* If, as a result of the transfer of stock of a corporation or corporations (whether by sale, exchange, distribution, contribution to capital, or otherwise), a controlled group (''old group'') goes out of existence, and a new controlled group (''new group'') comes into existence, then the new group shall be considered to be a successor to the old group, provided one of the following applies:

(i) A person or persons who own stock of the new group that meets the more-than-50-percent stock ownership requirement of section 1563(a)(2)(B) owned stock which met such stock ownership requirement with respect to the old group;

(ii) A person or persons who owned more than 50 percent of the fair market value of the stock of the common parent of the old group owns, with respect to the new group, stock that meets the more-than-50-percent stock ownership requirement of section 1563(a)(2)(B); or

(iii) A person or persons who owned stock that met the more-than-50-percent stock ownership requirement of section 1563(a)(2)(B) with respect to the old group owns more than 50 percent of the fair market value of the stock of the common parent of the new group.

For purposes of this paragraph, the term ''owns'' includes direct ownership and ownership with the application of the rules contained in paragraph (b) of §1.1563–3. For purposes of this subparagraph, if as a result of the transfer of stock, a parent-subsidiary controlled group or a brother-sister controlled group becomes a part of a combined group, then such parent-subsidiary or brother-sister group shall be considered as going out of existence as a result of such transfer. Also for purposes of this subparagraph, if as a result of the transfer of stock, a combined group goes out of existence and a parent-subsidiary or brother-sister group which was part of such combined group remains, then such parent-subsidiary or brother-sister group shall be considered to be a new controlled group which came into existence as a result of such transfer.

(2) *Examples.* The principles of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). On each day of 1971, unrelated individuals Grey, Black, and Green own the following amounts of the only class of outstanding stock of each of corporations R and T: Grey owns 40 percent, Black owns 40 percent, and Green owns 20 percent. On March 1, 1972, Grey sells all his stock in both corporations to unrelated individual Clay. As a result of the transfer, the brother-sister controlled group consisting of R and T goes out of existence. Since Black and Green, who owned stock which met the more-than-50-percent stock ownership requirement of section 1563(a)(2)(B) with respect to the old group, owns stock of the new group (consisting of R and T) that meets the more-than-50-percent stock ownership requirement of section 1563(a)(2)(B), the new group is considered to be the successor to the old group. If Green also sold all his stock in both corporations to unrelated individual Barnes, Black would be the only stockholder of the new group whose stock ownership was taken into account in meeting the more-than-50-percent stock ownership requirement of section 1563(a)(2)(B) with respect to the old group. Since Black would not own stock of the new group that meets the more-than-50-percent stock ownership requirement of section 1563(a)(2)(B), the new group would not be considered a successor to the controlled group which went out of existence.

Example (2). On each day of 1971, all the outstanding stock of corporation P is owned in the following manner: Smith owns 30 percent, Jones owns 30 percent, and White owns 40 percent. P owns all the stock of corporation S_1, S_2, W_1 and W_2. On December 31, 1971, P, S_1, S_2, W_1, and W_2 are component members of the same controlled group. If on March 1, 1972, P distributes all the stock of S_1 and S_2 equally to Smith and Jones and all the stock of W_1 and W_2 to White, the controlled group consisting of P, S_1, S_2, W_1, and W_2 goes out of existence. Since Smith and Jones, who together owned stock which met the more-than-50-percent stock ownership requirement of section 1563 (a)(2)(B) with respect to the old group, now together own stock of the new group (consisting of S_1 and S_2) that meets the more-than-50-percent stock ownership requirement of section 1563(a)(2)(B), such new group is considered the successor to the old group. On the other hand, since White, the sole shareholder of W_1 and W_2, did not own stock which met such stock ownership requirement with respect to the old group, the new group consisting of W_1 and W_2 is not considered a successor of the old group.

(3) *Transactions involving two common parents.* If, as a result of the transfer of stock of a corporation or corporations (whether by sale, exchange, distribution, contribution to capital, or otherwise):

(i) A parent-subsidiary controlled group of corporations goes out of existence because its common parent corporation ceases to be a common parent, and

(ii) The stockholders (immediately before the transfer) of such common parent corporation, as a result of owning stock in such common parent, own (immediately after the transfer) more than 50 percent of the fair market value of the stock of a corporation which is the common parent corporation of a controlled group of corporations immediately after the transfer,

the resulting controlled group shall be considered to be a successor group in respect of the controlled group which

went out of existence as a result of the transfer.

(4) *Example.* The provisions of subparagraph (3) of this paragraph may be illustrated by the following example:

Example. Corporation Y, the common parent of a parent-subsidiary controlled group, acquires the assets of corporation X, the common parent of another controlled group, in a statutory merger. The stockholders of X exchange their X stock for 60 percent of the fair market value of all of the outstanding shares of Y. Since, as a result of the exchange, (i) the parent-subsidiary controlled group of which X was the common parent goes out of existence because X ceases to be a common parent, and (ii) the stockholders of X, as a result of owning stock in X, own immediately after the exchange more than 50 percent of the fair market value of the stock of Y (the common parent of a controlled group of corporations immediately after the exchange), the controlled group of which Y is the common parent after the merger is considered to be a successor group in respect of the controlled group of which X was the common parent, and the group of which Y was the common parent before the merger is considered, under paragraph (a)(1) of this section, as no longer in existence. Thus, for example, if before the merger the controlled group of which X was the common parent was not eligible, by reason of the application of section 1562(d), to make an election under section 1562(a)(1) with respect to a December 31 occurring before December 31, 1970, then the successor controlled group would also be ineligible to make an election with respect to a December 31 occurring before December 31, 1970, whether or not the controlled group of which Y was the common parent before the merger had an election in effect pursuant to section 1562(a)(1).

[T.D. 6845, 30 FR 9747, Aug. 5, 1965, as amended by T.D. 7181, 37 FR 8067, Apr. 25, 1972]

§ 1.1562–6 Election for short taxable years.

(a) *Application of election to short taxable years*—(1) *General.* If the return of a corporation is for a short period which does not include a December 31, and if such corporation is a component member of a controlled group of corporations with respect to such short period, then an election under section 1562(a)(1) by such group shall apply with respect to such short period if:

(i) Such election is in effect with respect to both the December 31, immediately preceding such short period (hereinafter in this section referred to as the ''preceding December 31'') and the December 31 immediately succeeding such short period (hereinafter in this section referred to as the ''succeeding December 31''), or

(ii) Such election is in effect with respect to either the preceding December 31 or the succeeding December 31, and each corporation which is a component member of such group with respect to a short period falling between such dates consents to the application of such election to such short period. See subparagraph (4) of this paragraph for rules relating to an election with respect to certain short taxable years ending during 1964.

(2) *Component members.* For purposes of this section, the determination of whether a corporation is a component member of a controlled group of corporations with respect to a short period shall be made by applying the definition of component member contained in section 1563(b) and paragraph (b) of § 1.1563–1 as if the last day of such short period were a December 31 occurring after December 31, 1963.

(3) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. On December 31, 1964, corporations P, S–1, and S–2 are component members of a parent-subsidiary controlled group of corporations. P, S–1, and S–2 each uses the calendar year as its taxable year. On February 1, 1965, S–1 transfers property to newly formed corporation S–3 (which begins business on that date) and receives all the stock of S–3 in return. S–3 adopts a fiscal year ending on November 30 as its taxable year and, therefore, files a return for the short taxable year beginning on February 1, 1965, and ending on November 30, 1965. On December 5, 1965, S–2 is liquidated, and therefore files a return for the short taxable year beginning on January 1, 1965, and ending on December 5, 1965. S–2 and S–3 are component members of the controlled group of corporations with respect to their short taxable years falling between December 31, 1964, and December 31, 1965, within the meaning of subparagraph (2) of this paragraph. Assume that the controlled group has an election under section 1562(a)(1) in effect with respect to either December 31, 1964, or December 31, 1965, but not both such dates. Under subparagraph (1)(ii) of this paragraph, S–2 and S–3 must both file consents to the application of the section 1562(a)(1) election with respect to their short periods in order for the election to be effective with respect to either such short period.