

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.

(4) *Election for certain short taxable years ending during 1964.* If:

(i) A corporation is a component member of a controlled group of corporations with respect to a short taxable year beginning and ending in 1964,

(ii) Each corporation which was a component member of such group on December 31, 1963 (determined without regard to paragraph (b)(2)(iii) of § 1.1563-1, relating to the treatment of a corporation which has a taxable year ending on December 31, 1963, as an excluded member of a controlled group on such date) filed its income tax return on the basis of the calendar year ending on such date, and

(iii) Such controlled group of corporations is considered as going out of existence with respect to December 31, 1964, pursuant to paragraph (b)(4) of § 1.1562-2,

then, for purposes of paragraph (a)(1)(ii) of this section, an election by such controlled group under section 1562(a)(1) shall be deemed to have been in effect for the preceding December 31. Each corporation which is a component member of such group with respect to a short period falling between such preceding and succeeding December 31's must, on or before November 3, 1965, consent to the application of such election to its short period falling between such December 31's.

(b) *Status at time of filing return.* If, on the date a corporation files its income tax return for a short period falling between a preceding and succeeding December 31 (with respect to which period it is a component member of a controlled group of corporations):

(1) *Election not effective.* An election under section 1562(a)(1) is not effective with respect to either such preceding or succeeding December 31, then such member shall determine its surtax exemption for purposes of such return in accordance with section 1561(b).

(2) *Election effective for preceding December 31.* An election under section 1562(a)(1) is effective with respect to such preceding December 31, and if on the date the return is filed the election has not been terminated with respect to such succeeding December 31, then such member may compute its tax for purposes of such return on the assumption that the conditions of paragraph

(a)(1)(i) of this section are satisfied with respect to such short period.

(3) *Election effective for preceding or succeeding December 31.* An election under section 1562(a)(1) is effective with respect to either (but not both) such preceding or succeeding December 31, and the return is filed after such succeeding December 31, then the member's surtax exemption for purposes of such return shall be determined in accordance with section 1561(b) unless:

(i) It attaches to such return its consent to the application of such election to such short period, and

(ii) Each other corporation which is a component member of the group with respect to a short period falling between such December 31's files, within 30 days after such return is filed, a consent to the application of such election to its short period falling between such December 31's.

(c) *Election or termination after returns filed—(1) Election.* If, after each component member of a controlled group with respect to a short period falling between a preceding and succeeding December 31 files its return for such short period, the group makes an election under section 1562(a)(1) with respect to such succeeding December 31, then the election shall apply with respect to each such short period only if each such member files, within 30 days after such election is made, a consent to the application of such election to its short period.

(2) *Termination.* If, after each component member of a controlled group with respect to a short period falling between a preceding and succeeding December 31 files its return for such short period, an election under section 1562(a)(1) which is effective with respect to such group with respect to such preceding December 31 is terminated with respect to such succeeding December 31, then such election shall apply with respect to each such short period only if each such member files, within 30 days after the termination occurs, a consent to the application of such election to its short period. For purposes of the preceding sentence, (i) the termination of an election by consent under section 1562(c)(1) shall be

considered to occur on the date the termination is made, and (ii) the termination of an election under section 1562(c) (2), (3), or (4) shall be considered to occur on the date the event causing termination occurs (for example, on the date a new member files a refusal to consent, or on the date a consolidated return is filed) unless the election is made after such date, in which case the termination shall be considered to occur on the date the election is made.

(d) *Manner of consenting.* A consent referred to in paragraph (b)(3) or (c) of this section shall be made by means of a statement, signed by any person who is duly authorized to act on behalf of the consenting corporation, stating that such corporation consents to the application of an election under section 1562(a)(1) with respect to its short period. Each such statement shall set forth the name, address, taxpayer account number, and taxable year of (1) each corporation which is a component member of the electing controlled group with respect to a short period falling between the preceding December 31 and the succeeding December 31, and (2) each corporation which is a component member of such group on either the preceding or succeeding December 31. Each consenting corporation shall file such statement with the district director with whom it files (or filed) its income tax return for the short period.

[T.D. 6845, 30 FR 9749, Aug. 5, 1965]

§ 1.1562-7 Extension of statutory periods of limitation.

(a)(1) Under section 1562(g)(1), the statutory period for assessment of any deficiency against a corporation which is a component member of a controlled group of corporations with respect to any taxable year, to the extent such deficiency is attributable to an election under section 1562(a)(1) or a termination by consent under section 1562(c)(1), shall not expire before the expiration of one year after the date such election or termination is made.

(2) Under section 1562(g)(2), the statutory period for allowing or making credit or refund of any overpayment of tax by a corporation which is a component member of a controlled group of

corporations with respect to any taxable year, to the extent such overpayment is attributable to an election under section 1562(a)(1) or a termination by consent under section 1562(c)(1), shall not expire before the expiration of one year after the date such election or termination is made.

(b) For purposes of this section, the deficiency or overpayment in tax attributable to an election under section 1562(a)(1) or a termination by consent under section 1562(c)(1) shall be that amount of the increase or decrease in tax over the amount previously determined (as defined in section 1314(a)) for any taxable year which results from the application or nonapplication of section 1562, as the case may be. In determining the amount of such increase or decrease, due regard shall be given to the effect of any change in the amount of the surtax exemption (or the application or nonapplication of the additional tax under section 1562(b)) on credits allowable for any taxable year. Thus, for example, as a result of such change it may be necessary to recompute the amount of the investment credit allowable under section 38 for a taxable year for which the election or termination is effective and for other taxable years affected, or treated as affected, by an investment credit carryback or carryover (as defined in section 46(b)) determined with reference to the taxable years with respect to which such election or termination is effective.

(c) The provisions of this section shall not be construed to:

(1) Shorten the period within which an assessment of a deficiency may otherwise be made or the credit or refund of an overpayment may otherwise be allowed or made, or

(2) Apply to a deficiency or overpayment for a taxable year if the tax liability for such taxable year has been compromised under section 7122, or is the subject of a closing agreement under section 7121.

[T.D. 6845, 30 FR 9750, Aug. 5, 1965]

§ 1.1563-1 Definition of controlled group of corporations and component members.

(a) *Controlled group of corporations—*
(1) *In general.* For purposes of sections