

(2) *Portion of consolidated net capital loss attributable to a member.* The portion of a consolidated net capital loss attributable to a member of a group is an amount equal to such consolidated net capital loss multiplied by a fraction, the numerator of which is the net capital loss of such member, and the denominator of which is the sum of the net capital losses of those members of the group having net capital losses. For purposes of this subparagraph, the net capital loss of a member of the group shall be determined by taking into account the following:

(i) Such member's capital gain net income (net capital gain for taxable years beginning before January 1, 1977) or loss (determined without regard to any net capital loss carryover or carryback); and

(ii) Such member's section 1231 net loss, reduced by the portion of the consolidated section 1231 net loss attributable to such member.

(c)-(e) [Reserved]

(f) *Effective date.* Paragraphs (a) and (b) of this section apply to losses arising in consolidated return years to which §1.1502-21T(g) does not apply. For this purpose net operating loss deductions, carryovers, and carrybacks arise in the year from which they are carried. See §1.1502-21T(g) for effective dates of that section.

[T.D. 8677, 61 FR 33334, June 27, 1996]

REGULATIONS APPLYING SECTION 382 WITH RESPECT TO TESTING DATES (AND CORPORATIONS JOINING OR LEAVING CONSOLIDATED GROUPS) BEFORE JUNE 25, 1999

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§1.1502-92A Ownership change of a loss group or a loss subgroup generally applicable for testing dates before June 25, 1999.

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- (b) Determination of an ownership change.
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 - (2) Cause for applying supplemental rule.
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 - (5) Examples.
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§1.1502-93A Consolidated section 382 limitation (or subgroup section 382 limitation) generally applicable for testing dates before June 25, 1999.

- (a) Determination of the consolidated section 382 limitation (or subgroup section 382 limitation).
- (1) In general.
 - (2) Coordination with apportionment rule.
- (b) Value of the loss group (or loss subgroup).
- (1) Stock value immediately before ownership change.
 - (2) Adjustment to value.
 - (3) Examples.
- (c) Recognized built-in gain of a loss group or loss subgroup.
- (d) Continuity of business.
- (1) In general.
 - (2) Example.
- (e) Limitations of losses under other rules.

§1.1502-94A Coordination with section 382 and the regulations thereunder when a corporation becomes a member of a consolidated group generally applicable for corporations becoming members of a group before June 25, 1999.

- (a) Scope.
- (1) In general.
 - (2) Successor corporation as new loss member.
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- (b) Application of section 382 to a new loss member.
- (1) In general.
 - (2) Adjustment to value.
 - (3) Pre-change separate attribute defined.
 - (4) Examples.
- (c) Built-in gains and losses.
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§1.1502-95A Rules on ceasing to be a member of a consolidated group (or loss subgroup) generally applicable for corporations ceasing to be members before June 25, 1999.

- (a) In general.
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 - (2) Election by common parent.
 - (3) Coordination with §§1.1502-91T through 1.1502-93T.
- (b) Separate application of section 382 when a member leaves a consolidated group.
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 - (2) Effect of a prior ownership change of the group.
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- (d) Rules pertaining to ceasing to be a member of a loss subgroup.
- (1) In general.
 - (2) Examples.
- (e) Filing the election to apportion.
- (1) Form of the election to apportion.
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 - (3) Filing of the election.
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§1.1502-96A Miscellaneous rules generally applicable for testing dates before June 25, 1999.

- (a) End of separate tracking of losses.
- (1) Application.
 - (2) Effect of end of separate tracking.
 - (3) Continuing effect of end of separate tracking.
 - (4) Special rule for testing period.
 - (5) Limits on effects of end of separate tracking.
- (b) Ownership change of subsidiary.
- (1) Ownership change of a subsidiary because of options or plan or arrangement.
 - (2) Effect of the ownership change.
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 - (4) Example.
- (c) Continuing effect of an ownership change.

§1.1502-97A Special rules under section 382 for members under the jurisdiction of a court in a title 11 or similar case. [Reserved]

§1.1502-98A Coordination with section 383 generally applicable for testing dates (or members joining or leaving a group) before June 25, 1999.

§1.1502-99A Effective dates.

- (a) Effective date.
- (1) In general.
 - (2) Anti-duplication rules for recognized built-in gain.
- (b) Testing period may include a period beginning before January 1, 1997.
- (c) Transition rules.
- (1) Methods permitted.
 - (i) In general.
 - (ii) Adjustments to offset excess limitation.
 - (iii) Coordination with effective date.
 - (2) Permitted methods.
- (d) Amended returns.
- (e) Section 383.

[T.D. 8678, 61 FR 33336, June 27, 1996. Redesignated and amended by T.D. 8824, 64 FR 36127, July 2, 1999]