

has until June 1 of that year to comply with the requirements of this section.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9490]

RIN 1545-BJ12

Extended Carryback of Losses to or From a Consolidated Group; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final and temporary regulations (TD 9490) that were published in the *Federal Register* on Wednesday, June 23, 2010 (75 FR 35643) affecting corporations filing consolidated returns under section 1502. These regulations contain rules regarding the implementation of section 172(b)(1)(H) within a consolidated group and also permit certain acquiring consolidated groups to elect to waive all or a portion of the pre-acquisition carryback period pursuant to section 172(b)(1)(H) for specific losses attributable to certain acquired members.

DATES: This correction is effective on July 30, 2010, and is applicable on June 23, 2010.

FOR FURTHER INFORMATION CONTACT: Grid Glycer, (202) 622-7930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations (TD 9490) that are the subject of this document are under section 1502 of the Internal Revenue Code.

Need for Correction

As published, the final and temporary regulations (TD 9490) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.1502-21T(b)(3)(v) is amended by revising paragraphs (B), (C)(1), (C)(2), the last sentence of paragraph (E) *Example 1*(i), the fourth sentence of paragraph (E) *Example 1*(iii) and the fourth sentence of paragraph (E) *Example 2*(ii) to read as follows:

§ 1.1502-21T Net operating losses (temporary).

* * * * *

(B) *Taxpayer's taxable income.* For purposes of computing the limitation under section 172(b)(1)(H)(iv) on a Five-Year Carryback to any consolidated return year from any consolidated return year or separate return year, *taxpayer's taxable income* as used in section 172(b)(1)(H)(iv)(I) means consolidated taxable income (CTI) in the consolidated return year that is the fifth taxable year preceding the year of the loss. For purposes of the preceding sentence, CTI is computed without regard to any CNOL deduction attributable to the particular Five-Year Carryback or any NOL from any member's taxable year ending on the same date as the taxable year in which the Five-Year Carryback arises, or any taxable year thereafter.

(C) *Limitation on Five-Year Carrybacks to a consolidated group—(1) Annual limitation.* The aggregate amount of Five-Year Carrybacks from years ending on the same date (Testing Date) to any consolidated return year may not exceed the excess of 50 percent of the CTI for that year over the total of Five-Year Carrybacks to that consolidated return year from years ending before the Testing Date (Annual Limitation). For purposes of the preceding sentence, CTI is computed without regard to—

(i) Any CNOL deduction attributable to Five-Year Carrybacks to such year; or

(ii) Any NOL from any member's taxable year ending on the Testing Date or any taxable year thereafter.

(2) *Pro rata absorption of limited and non-limited losses.* Any Five-Year Carryback, and other net operating losses, from years ending on the same date that are available to offset CTI in the same year are absorbed on a pro rata basis. *See* § 1.1502-21(b)(1).

* * * * *

(E) * * *

Example 1. * * * (i) * * * There are no other NOL carrybacks into the X Group's 2004 consolidated taxable year.

* * * * *

(iii) * * * The Annual Limitation on Five-Year Carrybacks will be \$250 (\$500 × 50 percent), with CTI determined without taking into account the portion of P's 2008 CNOL carried back to the X Group's 2004 consolidated return year or the X Group's 2008 CNOL, which arises from a taxable year ending on the same date as the Five-Year Carryback. * * *

Example 2. * * *

(ii) * * * Because S is making the sole Five-Year Carryback to the X Group's 2004 consolidated return year, S will make a Five-Year Carryback of the full \$400. * * *

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9495]

RIN 1545-BC61

Qualified Zone Academy Bonds; Obligations of States and Political Subdivisions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document removes the temporary regulations and provides final regulations that provide guidance to state and local governments that issue qualified zone academy bonds and to banks, insurance companies, and other taxpayers that hold those bonds on the program requirements for qualified zone academy bonds. The final regulations implement the amendments to section 1397E (discussed in this preamble) and provide guidance on the maximum term, permissible use of proceeds, and remedial actions for qualified zone academy bonds.

DATES: *Effective Date:* These regulations are effective on July 30, 2010.

Applicability Date: For dates of applicability, see § 1.1397E-1(m) of these regulations.

FOR FURTHER INFORMATION CONTACT: Zoran Stojanovic, (202) 622-3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has