Title 8—Aliens and Nationality

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSABLE ALIENS; PAROLE

Nonresident Alien Border Crossing Cards

Correction

In F.R. Doc. 72-5815 appearing at page 7584 in the issue of Tuesday, April 18, 1972, the words "Form I-75" in the third and eighth lines of § 212.6(b) should read "Form I-175".

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 72-469]

PART 545—OPERATIONS

Real Estate Loans

APRIL 19, 1972.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) for the purpose of effecting technical revisions in several sections which relate to the Board's recent revision of § 545.6-7 of said part which was published in 37 F.R. 6285. Accordingly, the Federal Home Loan Bank Board hereby amends said Part 545 as follows, effective May 1, 1972:

1. Revise § 545.6-6 to read as follows:

§ 545.6-6 Lending area.

The regular lending area of a Federal association consists of the area: (a) Within a radius of 100 miles from such association's home office; (b) within a radius of 100 miles from each branch office of such association or other place of business approved by the Board as an agency of such association, to the extent that such area is also within the State in which such association's home office is located; and (c) in the case of a Federal association which is converted from a State-chartered institution, beyond 100 miles from its home office but within which area such association made loans while operating under State charter. Each converted association that desires to continue to make loans beyond 100 miles from its home office in the areas in which it made loans while operating under State charter shall file with the Board a map showing the areas within which such association made loans while operating under State charter. For the purpose of this section, the term "State" shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States; and a county, parish, or similar political subdivision of a State is the unit of "area" in which a converted association made loans beyond a radius of 100 miles from its home office while operating under State charter.

§ 545.6-14 [Amended]

2. Revise § 545.6-14 by deleting paragraph (i) thereof.

3. Revise paragraph (d) of § 545.6-16 to read as follows:

§ 545.6-16 Housing facilities for the aging.

* * * * *

(d) *Relationship to the other provisions of the regulations.* Except as expressly provided by this section, the exercise of any authority conferred on or vested in any Federal association by this section shall be subject to, and limited or restricted by, all other provisions of this part.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that, since the above amendments are of a technical nature to clarify references to the recent revision of § 545.6-7 above referred to and do not impose additional requirements, the Board hereby finds that notice and public procedure are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and the Board also finds, for the same reason, that publication for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of the amendments is unnecessary; and the Board hereby provides that the amendments shall become effective as hereinbefore set forth, on the same date on which such revision of § 545.6-7 becomes effective.

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.72-6280 Filed 4-24-72;8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 11171, Amdt. 39-1438]

PART 39—AIRWORTHINESS DIRECTIVES

Mitsubishi Model MU-2B Airplanes

Amendment 39-1238 (36 F.R. 12091) AD 71-14-1 requires periodic inspections of the main integral fuel tank inner surface coating and repair of peeling or blistering surfaces on Mitsubishi Model MU-2B airplanes. After issuing Amendment 71-14-1, the FAA has determined that the repetitive inspections required by the AD may be terminated if the fuel tanks undergo a rework involving the complete removal of the DV 1180 top coating material and the coating of the fuel tanks with Alodine and Finch 454-4-1 sealant in accordance with the airplane manufacturer's instructions. Therefore, the AD is being amended to provide for the termination of repetitive inspections when the fuel tanks are reworked in accordance with repair instructions provided in Mitsubishi Service Bulletin No. 143B, Method II, dated January 5, 1972. In addition AD 71-14-1 is being updated to include a reference to the current service bulletin.

Since this amendment provides an updated reference and an alternative means of compliance, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1238 (36 F.R. 12091), AD 71-14-1 is amended as follows:

1. By amending the last sentence of paragraph (f) to read: * * *

Remove all defective coating and rework the affected areas in accordance with repair instructions provided in Mitsubishi Service Bulletin No. 143A or 143B, Method I, dated April 23, 1971 and January 5, 1972, respectively, or an FAA approved-equivalent, or comply with paragraph (g) of this section.

2. By adding a new paragraph (g) to read: * * *

(g) Drain the fuel tanks, remove all the top coating material, and rework the fuel tanks in accordance with Mitsubishi Service Bulletin No. 143B, Method II, dated January 5, 1972, or an FAA approved-equivalent.

3. By adding a new paragraph (h) to read: * * *

(h) The repetitive inspections specified in paragraphs (d) and (e) of this section may be discontinued when the fuel tanks are reworked in accordance with paragraph (g) of this section.

This amendment becomes effective May 1, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on April 17, 1972.

WILLIAM C. SHREVE, JR.,
Acting Director,
Flight Standards Service.

[FR Doc.72-6256 Filed 4-24-72;8:46 am]

[Docket No. 11890, Amdt. 39-1439]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation de Havilland Model DH-114 "Heron" Airplanes

Pursuant to the authority delegated to me by the Administrator, an airworthiness directive was adopted on February 9, 1972, and made effective immediately as to all known operators of Hawker Siddeley de Havilland Model DH-114 "Heron" airplanes because of reported cracks of the fuselage rear spar transverse keel frame which could result in the loss of a wing in flight. The directive requires visual inspections of the fuselage rear spar tranverse keel frame for signs of buckling or cracking and repair, in accordance with approved instructions, as necessary. The initial inspection is required within the next 25 hours' time in service after the effective date of the AD; periodic inspections are required at intervals not exceeding 600 hours' time in service.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Hawker Siddeley de Havilland Model DH-114 "Heron" airplanes by individual telegram dated February 9, 1972. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

HAWKER SIDDELEY AVIATION. Applies to de Havilland Model DH-114 "Heron" airplanes.

Compliance required as indicated.

(a) Within the next 25 hours' time in service after the effective date of this AD, unless already accomplished within the last 575 hours' time in service, and thereafter at intervals not to exceed 600 hours' time in service from the last inspection, remove the inspection doors just forward and aft of the fuselage rear spar transverse keel frame at fuselage station 43.25 and visually inspect both the front and rear face, including reinforcing sections, if installed, of the fuselage rear spar transverse keel frame for signs of buckling and cracks.

NOTE: During the inspection required by paragraph (a) of this section, particular attention should be directed to the area near the wing rear spar attachment.

(b) If cracks or other damage is found during inspections specified in paragraph (a) of this section, before further flight, repair the keel frame in accordance with ARB approved repair instructions obtained from the Product Support Department, Hawker Siddeley Aviation Ltd. Hatfield, Hertfordshire, England or an equivalent approved by the Chief, Engineering and Manufacturing Branch of an FAA Region (or in the case of the Western Region, the Chief, Aircraft Engineering Division).

This amendment is effective April 25, 1972, and was effective upon receipt for all recipients of the telegram dated February 9, 1972, which contained this amendment.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on April 19, 1972.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

[FR Doc.72-6257 Filed 4-24-72;8:46 am]

[Airspace Docket No. 70-CE-98]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to make a minor alteration to the Fort Leonard Wood, Mo., transition area.

The 1,200-foot floor Fort Leonard Wood, Mo., transition area designated in 35 F.R. 18193, refers to "V-72". This airway now has been renumbered "V-238". Accordingly, it is necessary to revise the 1,200-foot floor transition area designation to affect this change.

Since this change is minor in nature, notice and public procedure hereon are neither necessary nor practicable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective June 22, 1972, as hereinafter set forth:

Amend § 71.181 of Part 71, Federal Aviation Regulations by substituting "V-238" for "V-72" in the description of the Fort Leonard Wood, Mo., 1,200-foot floor transition area.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on March 31, 1972.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.72-6254 Filed 4-24-72;8:46 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7181]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Multiple Corporations

On September 4, 1971, there was published in the FEDERAL REGISTER (36 F.R. 17863) a notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to reflect the provisions of section 401 of the Tax Reform Act of 1969 (Public Law 91-172), relating to multiple corporations. After consideration of all such relevant matters as were presented by interested persons regarding the rules proposed, the amendment to the regulations as proposed is hereby adopted, subject to the changes set forth below. These regulations supersede Treasury Decision 7101 (36 F.R. 5339), approved March 17, 1971.

PARAGRAPH 1. Section 1.46-1(f)(2)(i), as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is changed by revising the next-to-the-last sentence to read as set forth below:

PAR. 2. The last sentences of § 1.1563-1(c)(2)(ii) and (iii), as set forth in paragraph 19 of the appendix to the notice of proposed rule making, are revised to read as set forth below:

PAR. 3. Section 1.1564-1, as set forth in paragraph 22 of the appendix to the notice of proposed rule making, is changed by revising subparagraph (2) of, and adding a new subparagraph (3) to, paragraph (b). The revised and added provisions read as set forth below:

(Secs. 46(a)(5), 179(d)(6)(B), 1562(f), 1563(b)(4), 1563(f)(3)(B), 1564(a)(2), 7805 Internal Revenue Code of 1954, 83 Stat. 603; 26 U.S.C. 46(a)(5); 83 Stat. 604; 26 U.S.C. 179(d)(6)(B); 78 Stat. 119; 26 U.S.C. 1562(f); 78 Stat. 121; 26 U.S.C. 1563(b)(4); 78 Stat. 124; 26 U.S.C. 1563(f)(3)(B); 83 Stat. 601; 26 U.S.C. 1564(a)(2); and 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: April 14, 1972.

FREDERIC W. HICKMAN,
Acting Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 1.11 is amended by revising subsections (b), (c), and (d) of, and adding new subsections (e) and (f) to, section 11, and by revising the historical note. These new and revised provisions read as follows:

§ 1.11 Statutory provisions; tax imposed.

SEC. 11. *Tax imposed.* * * *

(b) *Normal tax.* The normal tax is equal to the following percentage of the taxable income:

(1) 30 percent, in the case of a taxable year beginning before January 1, 1964, and

(2) 22 percent, in the case of a taxable year beginning after December 31, 1963.

(c) *Surtax.* The surtax is equal to the following percentage of the amount by which the taxable income exceeds the surtax exemption for the taxable year:

(1) 22 percent, in the case of a taxable year beginning before January 1, 1964,

(2) 28 percent, in the case of a taxable year beginning after December 31, 1963, and before January 1, 1965, and

(3) 26 percent, in the case of a taxable year beginning after December 31, 1964.

(d) *Surtax exemption.* For purposes of this subtitle, the surtax exemption for any taxable year is $25,000, except that, with respect to a corporation to which section 1561 or 1564 (relating to surtax exemptions in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section.

(e) *Exceptions.* Subsection (a) shall not apply to a corporation subject to a tax imposed by—

(1) Section 594 (relating to mutual savings banks conducting life insurance business),

(2) Subchapter L (sec. 801 and following, relating to insurance companies), or

(3) Subchapter M (sec. 851 and following, relating to regulated investment companies and real estate investment trusts).

(*f*) *Foreign corporations.* In the case of a foreign corporation, the tax imposed by subsection (a) shall apply only as provided by section 882.

[Sec. 11 as amended by sec. 2, Tax Rate Extension Act 1955 (69 Stat. 114); sec. 2, Tax Rate Extension Act 1956 (70 Stat. 66); sec. 2, Tax Rate Extension Act 1957 (71 Stat. 9); sec. 2, Tax Rate Extension Act 1958 (72 Stat. 259); sec. 2, Tax Rate Extension Act 1959 (73 Stat. 157); sec. 201, Public Debt and Tax Rate Extension Act 1960 (74 Stat. 290); sec. 10(d), Act of Sept. 14, 1960 (Public Law 86-779, 74 Stat. 1009); sec. 2, Tax Rate Extension Act 1961 (75 Stat. 193); sec. 2, Tax Rate Extension Act 1962 (76 Stat. 114); sec. 2, Tax Rate Extension Act 1963 (77 Stat. 72); sec. 121, Rev. Act 1964 (78 Stat. 25); sec. 104 (b)(2), Foreign Investors Tax Act 1966 (80 Stat. 1557); sec. 401(b)(2)(B), Tax Reform Act 1969 (83 Stat. 602)]

PAR. 2. Section 1.11-1 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 1.11-1 Tax on corporations.

(a) Every corporation, foreign or domestic, is liable to the tax imposed under section 11 except (1) corporations described in section 11(e); (2) corporations expressly exempt from all taxation under subtitle A of the Code (see section 501); and (3) corporations subject to tax under section 511(a). For definition of the terms "corporation," "domestic," and "foreign," see section 7701(a) (3), (4), and (5), respectively. It is immaterial that a domestic corporation subject to the tax imposed by section 11 may derive no income from sources within the United States. The tax imposed by section 11 is payable upon the basis of returns rendered by the corporations liable thereto, except that in some cases a tax is to be paid at the source of the income. See subchapter A (section 6001 and following), chapter 61 of the Code, and section 1442.

* * * * *

(c) The normal tax is at the rate of 22 percent and is applied to the taxable income for the taxable year.

(d) The surtax is at the rate of 26 percent and is upon the taxable income (computed without regard to the deduction, if any, provided in section 242 for partially tax-exempt interest) in excess of $25,000. However, in certain circumstances the $25,000 exemption from surtax may be disallowed in whole or in part. See sections 269, 1551, 1561, and 1564 and the regulations thereunder.

* * * * *

PAR. 3. Section 1.46 is amended by revising subsection (a)(5) of section 46 and the historical note to read as follows:

§ 1.46 Statutory provisions; amount of credit.

SEC. 46. *Amount of credit*—(a) *Determination of amount.* * * *

(5) *Controlled groups.* In the case of a controlled group, the $25,000 amount specified under paragraph (2) shall be reduced for each component member of such group by apportioning $25,000 among the component members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning assigned to such term by section 1563(a).

* * * * *

[Sec. 46 as added by sec. 2(b), Rev. Act 1962 (76 Stat. 963); as amended by sec. 201 (d)(4), Rev. Act 1964 (78 Stat. 32); sec. 3, Act of Nov. 8, 1966 (Public Law 89-800, 80 Stat. 1514); sec. 2(a), Act of Dec. 27, 1967 (Public Law 90-225, 81 Stat. 731); sec. 401 (e)(1), Tax Reform Act 1969 (83 Stat. 603)]

PAR. 4. Section 1.46-1 is amended by revising so much of paragraph (b) as follows subparagraph (1)(ii)(*b*) thereof and paragraph (f) to read as follows:

§ 1.46-1 Determination of amount.

* * * * *

(b) *Limitation based on amount of tax*—(1) *In general.* * * *

(ii) * * *

(*b*) * * *

However, such $25,000 amount may be reduced in the case of certain married individuals filing separate returns (see paragraph (e) of this section); corporations which are component members of a controlled group (see paragraph (f) of this section); trusts and estates (see paragraph (c) of § 1.48-6); and organizations to which section 593 applies, regulated investment companies or real estate investment trusts subject to taxation under subchapter M, chapter 1 of the Code, and cooperative organizations described in section 1381(a) (see § 1.46-4). The excess of the credit earned for the taxable year over the limitation described in this paragraph for such taxable year is an unused credit which may be carried back or forward to other taxable years in accordance with § 1.46-2.

* * * * *

(f) *Apportionment of $25,000 amount among component members of a controlled group*—(1) *In general.* In determining the limitation based on amount of tax under section 46(a)(2) in the case of corporations which are component members of a controlled group of corporations on a December 31, only one $25,000 amount is available to such component members for their taxable years that include such December 31. See subparagraph (2) of this paragraph for apportionment of such amount among such component members. See subparagraph (3) of this paragraph for definition of "component member".

(2) *Manner of apportionment.* (i) In the case of corporations which are component members of a controlled group on a particular December 31, the $25,000 amount may be apportioned among such members for their taxable years that include such December 31 in any manner the component members may select, provided that each such member less than 100 percent of whose stock is owned, in the aggregate, by the other component members of the group on such December 31 consents to an apportionment plan. The consent of a component member to an apportionment plan with respect to a particular December 31 shall be made by means of a statement, signed by a person duly authorized to act on behalf of the consenting member, stating that such member consents to the apportionment plan with respect to such December 31 The statement shall set forth the name, address, employer identification number, and taxable year of each component member of the group on such December 31, the amount apportioned to each such member under the plan, and the location of the Service Center where the statement is to be filed. The consent of more than one component member may be incorporated in a single statement. The statement shall be timely filed with the Service Center where the component member having the taxable year first ending on or after such December 31 files its return for such taxable year and shall be irrevocable after such filing. If two or more component members have the same such taxable year, a statement of consent may be filed by any one of such members. Such statement shall be considered as timely filed if filed on or before the due date (including any extensions of time) of such member's income tax return which includes such December 31. However, if the due date (including any extensions of time) of the return of such member is on or before December 15, 1971, the required statement shall be considered as timely filed if filed on or before March 15, 1972. Each component member of the group on such December 31 shall keep as a part of its records a copy of the statement containing all the required consents.

(ii) An apportionment plan adopted by a controlled group with respect to a particular December 31 shall be valid only for the taxable year of each member of the group which includes such December 31. Thus, a controlled group must file a separate consent to an apportionment plan with respect to each taxable year which includes a December 31 as to which an apportionment plan is desired.

(iii) If the apportionment plan is not timely filed, the $25,000 amount specified in section 46(a)(2) shall be reduced for each component member of the controlled group, for its taxable year which includes a December 31, to an amount equal to $25,000 divided by the number of component members of such group on such December 31.

(iv) If a component member of the controlled group makes its income tax return on the basis of a 52-53-week taxable year, the principles of section 441(f)(2)(A)(ii) and paragraph (b)(1) of § 1.441-2 apply in determining the last day of such taxable year.

(3) *Definitions of controlled group of corporations and component member of controlled group.* For the purpose of this paragraph, the terms "controlled group of corporations" and "component member" of a controlled group of corporations shall have the same meaning assigned to those terms in section 1563 (a) and (b). For purposes of applying § 1.1563-1(b)(2)(ii)(*c*), an electing small business

corporation shall be treated as an excluded member whether or not it is subject to the tax imposed by section 1378.

(4) *Members of a controlled group filing a consolidated return.* If some component members of a controlled group join in filing a consolidated return pursuant to § 1.1502–3(a)(3), and other component members do not join, then, unless a consent is timely filed apportioning the $25,000 amount among the group filing the consolidated return and the other component members of the controlled group, each component member of the controlled group (including each component member which joins in filing the consolidated return) shall be treated as a separate corporation for purposes of equally apportioning the $25,000 amount under subparagraph (2)(iii) of this paragraph. In such case, the limitation based on the amount of tax for the group filing the consolidated return shall be computed by substituting for the $25,000 amount the total of the amount apportioned to each component member which joins in filing the consolidated return. If the affiliated group filing the consolidated return and the other component members of the controlled group adopt an apportionment plan, the affiliated group shall be treated as a single member for the purpose of applying subparagraph (2)(i) of this paragraph. Thus, for example, only one consent executed by the common parent to the apportionment plan is required for the group filing the consolidated return. If any component member of the controlled group which joins in the filing of the consolidated return is an organization to which section 593 applies or a cooperative organization described in section 1381(a), see paragraph (a)(3)(ii) of § 1.1502–3.

(5) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). At all times during 1970 Smith, an individual, owns all the stock of corporations X, Y, and Z. Corporation X files an income tax return on a calendar year basis. Corporation Y files an income tax return on the basis of a fiscal year ending June 30. Corporation Z files an income tax return on the basis of a fiscal year ending September 30. On December 31, 1970, X, Y, and Z are component members of the same controlled group. X, Y, and Z all consent to an apportionment plan in which the $25,000 amount is apportioned entirely to Y for its taxable year ending June 30, 1971 (Y's taxable year which includes December 31, 1970). Such consent is timely filed. For purposes of computing the credit under section 38, Y's limitation based on amount of tax for its taxable year ending June 30, 1971, is so much of Y's liability for tax as does not exceed $25,000, plus 50 percent of Y's liability for tax in excess of $25,000. X's and Z's limitations for their taxable years ending December 31, 1970, and September 30, 1971, respectively, are equal to 50 percent of X's liability for tax and 50 percent of Z's liability for tax. On the other hand, if an apportionment plan is not timely filed, X's limitation would be so much of X's liability for tax as does not exceed $8,333.33, plus 50 percent of X's liability in excess of $8,333.33, and Y's and Z's limitations would be computed similarly.

Example (2). At all times during 1970, Jones, an individual, owns all the outstanding stock of corporations P, Q, and R. Corporations Q and R both file returns for taxable years ending December 31, 1970. P files a consolidated return as a common parent for its fiscal year ending June 30, 1971, with its two wholly-owned subsidiaries N and O. On December 31, 1970, N, O, P, Q, and R are component members of the same controlled group. No consent to an apportionment plan is filed. Therefore, each member is apportioned $5,000 of the $25,000 amount ($25,000 divided equally among the five members). The limitation based on the amount of tax for the group filing the consolidated return (P, N, and O) for the year ending June 30, 1971 (the consolidated taxable year within which December 31, 1970, falls) is computed by using $15,000 instead of the $25,000 amount. The $15,000 is arrived at by adding together the $5,000 amounts apportioned to P, N, and O.

PAR. 5. Section 1.48 is amended by revising subsections (c) (2) (C), (3) (C), and (d) (2) of section 48 and the historical note to read as follows:

§ 1.48 Statutory provisions; definitions; special rules.

SEC. 48. *Definitions; special rules.* * * *

(c) *Used section 38 property.* * * *

(2) *Dollar limitation.* * * *

(C) *Controlled groups.* In the case of a controlled group, the $50,000 amount specified under subparagraph (A) shall be reduced for each component member of the group by apportioning $50,000 among the component members of such group in accordance with their respective amounts of used section 38 property which may be taken into account.

* * * * *

(3) *Definitions.* * * *

(C) *Controlled group.* The term "controlled group" has the meaning assigned to such term by section 1563(a), except that the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in section 1563(a)(1).

(d) *Certain leased property.* * * *

(2) If such property is leased by a corporation which is a component member of a controlled group (within the meaning of section 46(a)(5)) to another corporation which is a component member of the same controlled group, the basis of such property to the lessor.

* * * * *

[Sec. 48 as added by sec. 2(b), Rev. Act 1962 (76 Stat. 963); as amended by sec. 203(a) (1) and (3)(A), (b), and (c), Rev. Act 1964 (78 Stat. 33, 34); sec. 201(a), Act of Nov. 13, 1966 (Public Law 89–809, 80 Stat. 1575; sec. 3, Act of June 13, 1967 (Public Law 90–26, 81 Stat. 58); sec. 401(e) (2), (3), and (4), Tax Reform Act 1969 (83 Stat. 603)]

PAR. 6. Section 1.48–3 is amended by revising paragraphs (a)(1) and (2)(iii) and (e), and by redesignating paragraph (e) as paragraph (d). These revised provisions read as follows:

§ 1.48–3 Used section 38 property.

(a) *In general.* (1) Section 48(c) provides that "used section 38 property" means section 38 property acquired by purchase after December 31, 1961, which is not "new section 38 property." See §§ 1.48–1 and 1.48–2, respectively, for definitions of section 38 property and new section 38 property. In determining whether property is acquired by purchase, the provisions of paragraph (c)(1) of § 1.179–3 shall apply, except that (i) "1961" shall be substituted for "1957", and (ii) the definition of "component member" of a controlled group of corporations in paragraph (d)(4) of this section shall be substituted for the definition of such term in paragraph (e) of § 1.179–3.

(2) * * *

(iii) In determining whether a person bears a relationship described in section 179(d)(2) (A) or (B) to a person who used property before its acquisition by the taxpayer, the provisions of paragraph (c)(1) (i) and (ii) of § 1.179–3 shall apply, except that the definition of "component member" of a controlled group of corporations in paragraph (d)(4) of this section shall be substituted for the definition of such term in paragraph (e) of § 1.179–3.

* * * * *

(d) *Dollar limitation for component members of a controlled group—(1) In general.* (i) Section 48(c)(2)(C) provides that the $50,000 limitation on the cost of used section 38 property which may be taken into account for any taxable year shall, in the case of component members of a controlled group (as defined in subparagraph (4) of this paragraph) on a particular December 31, be reduced for each such member by apportioning the $50,000 amount among such component members for their taxable years that include such December 31 in accordance with their respective amounts of used section 38 property which may be taken into account, that is, in accordance with the total cost of used section 38 property placed in service by each such member during its taxable year (without regard to the $50,000 limitation or the applicable percentages to be applied in computing qualified investment).

(ii) Except as otherwise provided in this paragraph, the $50,000 amount shall be apportioned among those corporations which are component members of the controlled group on a December 31. For the taxable year of each such member which includes such December 31, the cost of used section 38 property taken into account in computing qualified investment under section 46(c)(1)(B) shall not exceed the amount which bears the same ratio to $50,000 as the cost of used section 38 property placed in service by such member for such taxable year bears to the total cost of used section 38 property placed in service by all component members of the controlled group for their taxable years which include such December 31.

(iii) If a component member of the group makes its income tax return on the basis of a 52–53-week taxable year, the principles of section 441(f)(2)(A)(ii) and paragraph (b)(1) of § 1.441–2 apply in determining the last day of such a taxable year.

(2) *Statement by the "filing member".* For purposes of this paragraph, the term "filing member" with respect to a particular December 31 means the member (or members) of a controlled group which has, among those members of the group which are apportioned part of the $50,000 amount for their taxable years which include such December 31, the taxable year including such December 31

which ends on the earliest date. The filing member of the group shall attach to its income tax return a statement containing the name, address, and employer identification number of each component member of the controlled group on such December 31 and a schedule showing the computation of the apportionment of the $50,000 amount among the component members of the group. Each such other member shall retain as part of its records a copy of the statement containing the apportionment schedule. Except as otherwise provided in subparagraph (3)(ii) of this paragraph, each member which is apportioned part of the $50,000 amount shall take such apportioned amount into account in filing its return for its taxable year which includes such December 31.

(3) *Estimate of used section 38 property to be placed in service.* (i) For purposes of subparagraphs (1) and (2) of this paragraph, if on the date (including extensions of time) for filing the income tax return of the filing member of the group with respect to a particular December 31, the total cost of used section 38 property actually placed in service by any component member of the group during such member's taxable year that includes such December 31 is not known, then such member shall estimate such cost. The estimate shall be made on the basis of the facts and circumstances known as of the time of the estimate. Any such estimate shall also be used in determining the total cost of used section 38 property placed in service by all component members for their taxable years including such December 31.

(ii) If an estimate is used by any component member of a controlled group pursuant to subdivision (i) of this subparagraph, each member may later file an original or amended return in which the apportionment of the $50,000 amount is based upon the cost of used section 38 property actually placed in service by all component members of the group during their taxable year which include such December 31. Such amended apportionment shall be made only if each component member of the group whose limitation would be changed files an original or amended return which reflects the amended apportionment based upon the cost of the used section 38 property actually placed in service by component members of the group. In such case, the new statement reflecting the amended apportionment shall be attached to the amended return of the filing member of the group, and a copy of such statement shall be retained by each such member pursuant to the requirements of subparagraph (2) of this paragraph.

(4) *Definitions of controlled group of corporations and component member of controlled group.* For purposes of this section, the terms "controlled group of corporations" and "component member" of a controlled group of corporations shall have the same meaning assigned to those terms in section 1563 (a) and (b), except that the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in section 1563(a)(1). For purposes of applying § 1.1563-1(b)(2)(ii)(c), an electing small business corporation shall be treated as an excluded member whether or not it is subject to the tax imposed by section 1378.

(5) *Members of controlled group filing a consolidated return.* For the purpose of apportioning the $50,000 amount in the case of component members of a controlled group which join in filing a consolidated return, all such members shall be treated as though they were a single component member of the controlled group. Thus, in determining the limitation on the cost of used section 38 property which may be taken into account by the group filing the consolidated return, the apportionment provided in subparagraph (1)(ii) of this paragraph shall be made by using the aggregate cost of such property placed in service by all members of the group filing the consolidated return. If all component members of the controlled group join in filing a consolidated return, the group may select the items to be taken into account to the extent of an aggregate cost of $50,000; if some component members of the controlled group do not join in filing the consolidated return, then the members of the group which join in filing the consolidated return may select the items to be taken into account to the extent of the amount apportioned to such members under subparagraph (1)(ii) of this paragraph.

(6) *Examples.* This paragraph may be illustrated by the following examples:

Example (1). (i) On December 31, 1970, corporations M, N, and O are component members of the same controlled group. The taxable years of M, N, and O end, respectively, on January 31, March 31, and April 30. During the respective taxable years of each corporation which include December 31, 1970, M places in service no used section 38 property, and N and O place in service used section 38 property with respective costs of $100,000 and $150,000. N is the "filing member" of the group since N, among the members (N and O) which are apportioned part of the $50,000 amount for their taxable years which include such December 31, has the taxable year ending on the earliest date.

(ii) The cost of used section 38 property taken into account by N for its taxable year ending March 31, 1971, may not exceed $20,000, that is, an amount which bears the same ratio to $50,000 as the cost of used section 38 property placed in service by N for its taxable year ($100,000) bears to the total cost of used section 38 property placed in service by all component members of the controlled group (M, N, and O) for their taxable years which include December 31, 1970 ($250,000). Similarly, the cost of used section 38 property taken into account by O for its taxable year ending April 30, 1971, may not exceed $30,000.

Example (2). (i) On December 31, 1971, corporations S and T are component members of the same controlled group. The taxable years of corporations S and T end, respectively, on January 31 and June 30. On April 15, 1972, S files an income tax return for its taxable year ending January 31, 1972, during which year it places in service used section 38 property costing $100,000. T estimates that it will place in service used section 38 property costing $150,000 during its taxable year ending June 30, 1972.

(ii) S, the "filing member" of the group, must file an apportionment schedule under which it may take into account as the cost of used section 38 property an amount not in excess of $20,000 ($100,000/$250,000 × $50,000). If T actually places in service during its taxable year used section 38 property costing more or less than $150,000, its income tax return for its taxable year ending June 30, 1972, may reflect the amended apportionment of the $50,000 limitation based upon the cost of used section 38 property actually placed in service by the group, provided that S attaches a new apportionment schedule to an amended return to reflect the amended apportionment. For example, if T places in service used section 38 property costing $200,000, the cost of used section 38 property taken into account by S and T for their respective taxable years could not exceed $16,667 ($100,000/$300,000 × $50,000) and $33,333 ($200,000/$300,000 × $50,000), respectively, under an amended apportionment.

PAR. 7. Section 1.48-4 is amended by revising paragraphs (c)(3)(ii) and (e) to read as follows:

§ 1.48-4 Election of lessor of new section 38 property to treat lessee as purchaser.

* * * * *

(c) *Basis of leased property.* * * *

(3) *Property transferred after February 25, 1964.* * * *

(ii) If the property is leased by a component member of a controlled group to another component member of the same controlled group (within the meaning of paragraph (f)(4) of § 1.46-1) on the date possession of the property is transferred to the lessee, the basis of the property in the hands of the lessee shall be the basis of the property in the hands of the lessor.

* * * * *

(e) *Lessor itself a lessee.* If the lessor of property is itself a lessee who is treated, under this section, as having purchased such property, and such sublessor makes a valid election under this section to treat the sublessee as a purchaser, then the basis and estimated useful life of such property in the hands of the sublessee shall be determined under paragraphs (c) and (d) of this section as if the original lessor had leased the property directly to the sublessee on the date possession of the property was transferred to the sublessee. Thus, for example, if on March 1, 1971, corporation X leases property to corporation Y, which in turn subleases the property to individual A (who is the first person to use the property for its intended function), and if both X and Y make valid elections under this section, the basis of the property to A is equal to its fair market value on the date on which possession is transferred from Y to A (regardless of whether X and Y are component members of the same controlled group), and its estimated useful life to A is the estimated useful life in the hands of X.

* * * * *

PAR. 8. Section 1.179 is amended by revising paragraphs (2)(B), (6), and (7) of section 179(d) and the historical note to read as follows:

§ 1.179 Statutory provisions; additional first-year depreciation allowance.

SEC. 179. *Additional first-year depreciation allowance for small business.* * * *

(d) *Definition and special rules.* * * *

(2) *Purchase defined.* * * *

(B) The property is not acquired by one component member of a controlled group from another component member of the same controlled group, and

* * * * *

(6) *Dollar limitation of controlled group.* For purposes of subsection (b) of this section—

(A) All component members of a controlled group shall be treated as one taxpayer, and

(B) The Secretary or his delegate shall apportion the dollar limitation contained in such subsection (b) among the component members of such controlled group in such manner as he shall by regulations prescribe.

(7) *Controlled group defined.* For purposes of paragraphs (2) and (6), the term "controlled group" has the meaning assigned to it by section 1563(a); except that, for such purposes, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in section 1563(a)(1).

* * * * *

[Sec. 179 as added by sec. 204, Small Business Tax Revision Act 1958 (72 Stat. 1679); as amended by sec. 13(c), Rev. Act 1962 (76 Stat. 1034); sec. 401(f), Tax Reform Act 1969 (83 Stat. 603]

PAR. 9. Section 1.179–2 is amended by revising paragraph (c) to read as follows:

§ 1.179–2 Dollar limitation.

* * * * *

(c) *Component members of a controlled group.* Component members of a controlled group (as defined in paragraph (e) of § 1.179–3) on a December 31 shall be treated as one taxpayer in applying the $10,000 limitation of this section. The allowance may be taken by any one such member or allocated (for the taxable year of each such member which includes such December 31) among the several members in any manner, pursuant to allocation by the common parent corporation if a consolidated return is filed for all component members of the group, or in accordance with an agreement entered into by the members of the group if separate returns are filed. If a consolidated return is filed by some component members of the group and separate returns are filed by other component members, then the common parent of the group filing the consolidated return shall enter into an agreement with those members who do not join in filing the consolidated return allocating the amount between the group filing the consolidated return and the other component members of the controlled group who do not join in filing the consolidated return. The amount of the allowance allocated to any member, however, shall not exceed 20 percent of the cost of the section 179 property actually purchased by the member in the taxable year. If a consolidated return is filed, the common parent corporation shall file a separate statement attached to the income tax return in which an election is made to claim an additional first-year depreciation. See § 1.179–4. If separate returns are filed by some or all component members of the group, each component member to which is allocated any part of the deduction under section 179 shall file a separate statement attached to the income tax return in which an election is made to claim an additional first-year depreciation allowance. See § 1.179–4. Such statement shall include the name, address, employer identification number, and the taxable year of each component member of the controlled group, a copy of the allocation agreement signed by persons duly authorized to act on behalf of those members who file separate returns, and a description of the manner in which the deduction under section 179 has been divided among them. If a consolidated return is filed for all component members of the group, an allocation among such members of the allowance under section 179 shall not be revoked after the due date of the return (including extensions of time) of the common parent corporation for the taxable year for which an election to take an allowance is made. If some or all of the component members of the controlled group file separate returns for taxable years including a particular December 31 for which an election to take the allowance is made, the allocation as to all members of the group shall not be revoked after the due date of the return (including extensions of time) of the component member of the controlled group whose taxable year which includes such December 31 ends on the latest date.

* * * * *

PAR. 10. Section 1.179–3 is amended by revising paragraphs (c)(1)(ii) and (e) to read as follows:

§ 1.179–3 Definitions and special rules.

* * * * *

(c) *Purchase.* (1) * * *

(ii) The property is not acquired by purchase if acquired from any one component member of a controlled group (as defined in paragraph (e) of this section) by another component member of such group.

* * * * *

(e) *Definitions of controlled group of corporations and component member of controlled group.* For purposes of section 179, the terms "controlled group of corporations" and "component member" of a controlled group of corporations shall have the same meaning assigned to those terms in section 1563 (a) and (b), except that the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in section 1563(a)(1).

* * * * *

PAR. 11. Section 1.535 is amended by revising subsection (c)(5) of section 535 and the historical note to read as follows:

§ 1.535 Statutory provisions; accumulated taxable income.

SEC. 535. *Accumulated taxable income.* * * *

(c) *Accumulated earnings credit.* * * *

(5) *Cross reference.* For denial of credit provided in paragraph (2) or (3) where multiple corporations are formed to avoid tax, see section 1551, and for limitation on such credit in the case of certain controlled corporations, see sections 1561 and 1564.

[Sec. 535 as amended by sec. 31, Technical Amendments Act 1958 (72 Stat. 1631); sec. 205, Small Business Tax Revision Act 1958 (72 Stat. 1680); sec. 9(d)(2), Rev. Act. 1962 (76 Stat. 1001); sec. 401(b)(2)(C), Tax Reform Act 1969 (83 Stat. 602)]

PAR. 12. Section 1.535–3 is amended by revising paragraphs (b)(2) and (c) to read as follows:

§ 1.535–3 Accumulated earnings credit.

* * * * *

(b) *Corporation which is not a mere holding or investment company.* * * *

(2) *Minimum credit.* Section 535(c)(2) provides for the allowance of a minimum accumulated earnings credit in the case of a corporation which is not a mere holding or investment company. Except as otherwise provided in section 243(b)(3) and § 1.243–5 (relating to effect of 100-percent dividends received deduction under section 243(b)) and section 1564 (relating to transitional rules in the case of certain controlled corporations), in the case of such a corporation, this minimum credit shall in no case be less than the amount by which $100,000 exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year. See paragraph (d) of this section for the effect of dividends paid after the close of the taxable year in determining accumulated earnings and profits at the close of the preceding taxable year. In determining the amount of the minimum credit allowable under section 535(c)(2), the needs of the business are not taken into consideration. If the taxpayer has accumulated earnings and profits at the close of the preceding taxable year equal to or in excess of $100,000, the credit, if any, is determined without regard to section 535(c)(2). It is not intended that the provision for the minimum credit shall in any way create an inference that an accumulation in excess of $100,000 is unreasonable. The reasonable needs of the business may require the accumulation of more or less than $100,000, depending upon the circumstances in the case, but such needs shall not be taken into consideration to any extent in cases where the minimum accumulated earnings credit is applicable. For a discussion of the reasonable needs of the business, see section 537 and §§ 1.537–1, 1.537–2, and 1.537–3.

* * * * *

(c) *Holding and investment companies.* Section 535(c)(3) provides that, in the case of a mere holding or investment company, the accumulated earnings credit shall be the amount, if any, by which $100,000 exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year. Thus, if such a corporation has accumulated earnings equal to or in excess of $100,000 at the close of its preceding taxable year, no accumulated earnings credit is allowable in computing

the accumulated taxable income. See paragraph (c) of § 1.533–1 for a definition of a holding or investment company. For the accumulated earnings credit of a mere holding or investment company which is a member of an affiliated group which has elected the 100-percent dividends received deduction under section 243(b), see section 243(b)(3) and § 1.243–5. For the accumulated earnings credit of a mere holding or investment company which is a component member of a controlled group of corporations (as defined in section 1563), see section 1564.

* * * * *

PAR. 13. Section 1.804 is amended by adding a new subsection (d) to section 804 and by revising the historical note to read as follows:

§ 1.804 Statutory provisions; life insurance companies; taxable investment income.

SEC. 804. *Taxable investment income.* * * *

(d) *Cross reference.* For reduction of the $25,000 amount provided in subsection (a)(4) in the case of certain controlled corporations, see sections 1561 and 1564.

[Sec. 804 as added by sec. 2, Life Insurance Company Tax Act 1955 (70 Stat. 41); amended by sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 115); sec. 3, Act of Oct. 23, 1962 (Public Law 87–858, 76 Stat. 1134); sec. 214(b)(3), Rev. Act 1964 (78 Stat. 55); sec. 401(b)(2)(D), Tax Reform Act 1969 (83 Stat. 602)]

PAR. 14. Section 1.804–2 is amended by revising paragraph (d)(1) to read as follows:

§ 1.804–2 Taxable investment income.

* * * * *

(d) *Taxable investment income of a life insurance company*—(1) *Definition.* Section 804(a)(2) defines the term "taxable investment income", for purposes of part I, as an amount (not less than zero) equal to the amount (if any) by which the net long-term capital gain exceeds the net short-term capital loss, plus the sum of the life insurance company's share (as determined under paragraph (c) of this section) of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received), reduced by the sum of—

(i) The life insurance company's share of interest which under section 103 is excluded from gross income,

(ii) The deduction for partially tax-exempt interest provided by section 242 (as modified by section 804(a)(3) and subparagraph (2)(i) of this paragraph) computed with respect to the life insurance company's share of such interest,

(iii) The deducton for dividends received provided by sections 243, 244, and 245 (as modified by section 804(a)(5) and subparagraph (2)(ii) of this paragraph) computed with respect to the life insurance company's share of the dividends received, and

(iv) The small business deduction provided by section 804(a)(4). For purposes of part I, such small business deduction shall be an amount equal to 10 percent of the investment yield for the taxable year, except that such amount shall not exceed $25,000, or, in the case of a component member of a controlled group of corporations (as defined in section 1563), the amount allowable under section 1564(a).

* * * * *

PAR. 15. Section 1.1562 is amended by revising so much of subsection (b)(1) of section 1562 as precedes subparagraph (A) thereof and the historical note to read as follows:

§ 1.1562 Statutory provisions; privilege of groups to elect multiple surtax exemptions.

SEC. 1562. *Privilege of groups to elect multiple surtax exemptions.* * * *

(b) *Additional tax imposed*—(1) *General rule.* If an election under subsection (a)(1) by a controlled group of corporations is effective with respect to the taxable year of a corporation, there is hereby imposed for such taxable year on the taxable income of such corporation a tax equal to 6 percent of so much of such corporation's taxable income for such taxable year as does not exceed the amount of such corporation's surtax exemption for such taxable year. This paragraph shall not apply to the taxable year of a corporation if—

* * * * *

[Sec. 1562 as added by sec. 235(a), Rev. Act 1964 (78 Stat. 116); amended by sec. 401(b)(2)(A), Tax Reform Act 1969 (83 Stat. 602)]

PAR. 16. Section 1.1562–1 is amended by revising paragraph (b)(2) to read as follows:

§ 1.1562–1 Privilege of controlled group to elect multiple surtax exemptions.

* * * * *

(b) *Effect of election.* * * *

(2) *Additional tax.* The additional tax imposed by section 1562(b) is an amount equal to 6 percent of so much of a corporation's taxable income for the taxable year as does not exceed the amount of such corporation's surtax exemption for such taxable year. However, if a corporation computes its tax under section 1201 (relating to alternative tax) and is subject to the additional tax imposed by section 1562(b) for such taxable year, the additional tax applies only to an amount equal to the taxable income reduced by the excess of the net long-term capital gain over the net short-term capital loss for such taxable year (to the extent such amount does not exceed the amount of such corporation's surtax exemption for such taxable year).

* * * * *

PAR. 17. Section 1.1562–5 is amended by revising paragraph (a)(2), examples (4), (5), and (6) of paragraph (b)(2), and paragraph (c) (1) and (2) to read as follows:

§ 1.1562–5 Continuing and successor groups.

(a) *Controlled group continuing in existence.* * * *

(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).

* * * * *

(b) *Controlled group no longer in existence.* * * *

(2) *Examples.* * * *

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.

* * * * *

(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, own 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.

* * * * *

PAR. 18. Section 1.1563 is amended by revising subsection (a)(2), so much of subsection (c)(2)(A) as follows clause (i) thereof, and subsection (c)(2)(B), of section 1563 and the historical note to read as follows:

§ 1.1563 Statutory provisions; definitions and special rules.

SEC. 1563. *Definitions and special rules—*

(a) *Controlled group of corporations.* * *

(2) *Brother-sister controlled group.* Two or more corporations if five or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2)) stock possessing—

(A) At least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation, and

(B) More than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

* * * * *

(c) *Certain stock excluded.* * *

(2) *Stock treated as "excluded stock".*

(A) *Parent-subsidiary controlled group.* * * *

(ii) Stock in the subsidiary corporation owned by an individual (within the meaning of subsection (d)(2)) who is a principal stockholder or officer of the parent corporation. For purposes of this clause, the term "principal stockholder" of a corporation means an individual who owns (within the meaning of subsection (d)(2)) 5 percent or more of the total combined voting power of all classes of stock entitled to vote or 5 percent or more of the total value of shares of all classes of stock in such corporation,

(iii) Stock in the subsidiary corporation owned (within the meaning of subsection (d)(2)) by an employee of the subsidiary corporation if such stock is subject to conditions which run in favor of such parent (or subsidiary) corporation and which substantially restrict or limit the employee's right (or if the employee constructively owns such stock, the direct owner's right) to dispose of such stock, or

(iv) Stock in the subsidiary corporation owned (within the meaning of subsection (d)(2)) by an organization (other than the parent corporation) to which section 501 (relating to certain educational and charitable organizations which are exempt from tax) applies and which is controlled directly (or indirectly by the parent corporation or subsidiary corporation, by an individual, estate, or trust that is a principal stockholder (within the meaning of clause (ii)) of the parent corporation, or by any combination thereof.

(B) *Brother-sister controlled group.* For purposes of subsection (a)(2), if five or fewer persons who are individuals, estates, or trusts (referred to in this subparagraph as "common owners") own (within the meaning of subsection (d)(2)), 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock in a corporation, the following stock of such corporation shall be treated as excluded stock—

(i) Stock in such corporation held by an employees' trust described in section 401(a) which is exempt from tax under section 501(a), if such trust is for the benefit of the employees of such corporation,

(ii) Stock in such corporation owned (within the meaning of subsection (d)(2)) by an employee of the corporation if such stock is subject to conditions which run in favor of any of such common owners (or such corporation) and which substantially restrict or limit the employee's right (or if the employee constructively owns such stock, the direct owner's right) to dispose of such stock. If a condition which limits or restricts the employee's right (or the direct owner's right) to dispose of such stock also applies to the stock held by any of the common owners pursuant to a bona fide reciprocal stock purchase arrangement, such condition shall not be treated as one which restricts or limits the employee's right to dispose of such stock, or

(iii) Stock in such corporation owned (within the meaning of subsection (d)(2)) by an organization to which section 501 (relating to certain educational and charitable organizations which are exempt from tax) applies and which is controlled directly or indirectly by such corporation, by an individual, estate, or trust that is a principal stockholder (within the meaning of subparagraph (A)(ii)) of such corporation, by an officer of such corporation, or by any combination thereof.

* * * * *

[Sec. 1563 as added by sec. 235(a), Rev. Act 1964 (78 Stat. 116); amended by sec. 401(c) and (d); Tax Reform Act 1969 (83 Stat. 602)]

PAR. 19. Section 1.1563–1 is amended by revising paragraphs (a)(3), (4), and (5)(i), example (1) of paragraph (b)(4), and paragraph (c) to read as follows:

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

(a) *Controlled group of corporations.* * * *

(3) *Brother-sister controlled group.* (i) The term "brother-sister controlled group" means two or more corporations if the same five or fewer persons who are individuals, estates, or trusts own (directly and with the application of the rules contained in paragraph (b) of § 1.1563–3), singly or in combination, stock possessing—

(*a*) At least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation; and

(*b*) More than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent

such stock ownership is identical with respect to each such corporation.

(ii) The principles of this subparagraph may be illustrated by the following examples:

Example (1). The outstanding stock of corporations P, Q, R, S, and T, which have only one class of stock outstanding, is owned by the following unrelated individuals:

Individuals	Corporations					Identical ownership
	P	Q	R	S	T	
A	60%	60%	60%	60%	100%	60%
B	40%					
C		40%				
D			40%			
E				40%		
Total	100%	100%	100%	100%	100%	60%

Corporations P, Q, R, S, and T are members of a brother-sister controlled group.

Example (2). The outstanding stock of corporations U and V, which have only one class of stock outstanding, is owned by the following unrelated individuals:

Individuals	Corporations		Identical ownership
	U	V	
F	5%		
G	10%		
H	10%		
I	20%		
J	55%	55%	55%
K		10%	
L		10%	
M		10%	
N		10%	
O		5%	
Total	100%	100%	55%

Corporations U and V are not members of a brother-sister controlled group because at least 80 percent of the stock of each corporation is not owned by the same five or fewer persons.

(4) *Combined group.* (i) The term "combined group" means any group of three or more corporations, if—

(*a*) Each such corporation is a member of either a parent-subsidiary controlled group of corporations or a brother-sister controlled group of corporations, and

(*b*) At least one of such corporations is the common parent of a parent-subsidiary controlled group and also is a member of a brother-sister controlled group.

(ii) The definition of a combined group of corporations may be illustrated by the following examples:

Example (1). Smith, an individual, owns stock possessing 80 percent of the total combined voting power of all classes of the stock of corporations X and Y. Y, in turn, owns stock possessing 80 percent of the total combined voting power of all classes of the stock of corporation Z. Since—

(*a*) X, Y, and Z are each members of either a parent-subsidiary or brother-sister controlled group of corporations, and

(*b*) Y is the common parent of a parent-subsidiary controlled group of corporations consisting of Y and Z, and also is a member of a brother-sister controlled group of corporations consisting of X and Y,

X, Y, and Z are members of the same combined group.

Example (2). Assume the same facts as in example (1), and further assume that corporation X owns 80 percent of the total value of shares of all classes of stock of corporation T. X, Y, Z, and T are members of the same combined group.

(5) *Insurance group.* (i) The term "insurance group" means two or more insurance companies subject to taxation under section 802 each of which is a member of a controlled group of corporations described in subparagraph (2), (3), or (4) of this paragraph. Such insurance companies shall be treated as a controlled group of corporations separate from any other corporations which are members of the controlled group described in such subparagraph (2), (3), or (4). For purposes of this section and § 1.1562–5, the common parent of the controlled group described in subparagraph (2) of this paragraph shall be referred to as the common parent of the insurance group.

* * * * *

(b) *Component members.* * * *

(4) *Examples.* * * *

Example (1). Brown, an individual, owns all of the stock of corporations W and X on each day of 1964. W and X each uses the calendar year as its taxable year. On January 1, 1964, Brown also owns all the stock of corporation Y (a fiscal year corporation with a taxable year beginning on July 1, 1964, and ending on June 30, 1965), which stock he sells on October 15, 1964. On December 1, 1964, Brown purchases all the stock of corporation Z (a fiscal year corporation with a taxable year beginning on September 1, 1964, and ending on August 31, 1965). On December 31, 1964, W, X, and Z are members of the same controlled group. However, the component members of the group on such December 31 are W, X, and Y. Under subparagraph (2)(i) of this paragraph, Z is treated as an excluded member of the group on December 31 1964, since Z was a member of the group for less than one-half of the number of days (29 out of 121 days) during the period beginning on September 1, 1964 (the first day of its taxable year) and ending on December 30, 1964. Under subparagraph (3) of this paragraph, Y is treated as an additional member of the group on December 31, 1964, since Y was a member of the group for at least one-half of the number of days (107 out of 183 days) during the period beginning on July 1, 1964 (the first day of its taxable year) and ending on December 30, 1964.

* * * * *

(c) *Overlapping groups* — (1) *In general.* If on a December 31 a corporation is a component member of a controlled group of corporations by reason of ownership of stock possessing at least 80 percent of the total value of shares of all classes of stock of the corporation, and if on such December 31 such corporation is also a component member of another controlled group of corporations by reason of ownership of other stock (that is, stock not used to satisfy the at-least-80-percent total value test) possessing at least 80 percent of the total combined voting power of all classes of stock of the corporation entitled to vote, then such corporation shall be treated as a component member only of the controlled group of which it is a component member by reason of the ownership of at least 80 percent of the total value of its shares.

(2) *Brother-sister controlled groups.* (i) If on a December 31, a corporation would, without application of this subparagraph, be a component member of more than one brother-sister controlled group on such date, such corporation shall be treated as a component member of only one such group on such date. Such a corporation may select which group in which it is to be included by filing an election as provided in this subparagraph. The election shall be in the form of a statement designating the group in which the corporation is to be included. The statement shall provide all the information with respect to stock ownership which is reasonably necessary to satisfy the Internal Revenue officer with whom it is filed that the corporation would, but for the election, be a component member of more than one controlled group. Once filed, the election is irrevocable and effective until such time that a change in the stock ownership of the corporation results in termination of membership in the controlled group in which such corporation has been included.

(ii) Except as provided in subdivision (iii) of this subparagraph, the statement shall be signed by a person duly authorized to act on behalf of such corporation and shall be filed on or before the due date (including extension of time) for the filing of the income tax return of such corporation for the taxable year. However, in the case of an election with respect to December 31, 1970, the statement shall be considered as timely filed if filed on or before December 15, 1971. In the event no election is filed in accordance with the provisions of this subdivision, then the district director with audit jurisdiction of such corporation's return for the taxable year which includes such December 31 shall determine the group in which such corporation is to be included, and such determination shall be binding for all subsequent years unless the corporation files a valid election with respect to any such subsequent year.

(iii) If more than one corporation would, without application of this subparagraph, be a component member of more than one controlled group, a single statement shall be signed by persons duly authorized to act on behalf of each such corporation. Such statement shall designate the group in which each corporation is to be included. The statement shall be attached to the income tax return of the corporation that, among those corporations which would (without the application of this subparagraph) belong to more than one group, has the taxable year including such December 31 which ends on the earliest date. However, in the case of an election with respect to December 31, 1970, the statement may be filed by December 15, 1971, with the service center director with whom such corporation's return is filed for the taxable year which includes such December 31. In the event no election is filed in accordance with the provisions of this subdivision, then the district director with audit jurisdiction of such corporation's return for the taxable year that includes such December 31 shall determine the

group in which each corporation is to be included, and such determination shall be binding for all subsequent years unless the corporations file a valid election with respect to any such subsequent year.

(iv) The provisions of this subparagraph may be illustrated by the following examples (in which it is assumed that all the individuals are unrelated):

Example (1). On each day of 1970 all the outstanding stock of corporations M, N, and P is held in the following manner:

Individuals	Corporations		
	M	N	P
A	60%	40%	0
B	40%	20%	40%
C	0	40%	60%

Since the more-than-50-percent stock ownership requirement of section 1563(a)(2)(B) is met with respect to corporations M and N and with respect to corporations N and P, but not with respect to corporations M, N, and P, corporation N would, without the application of this subparagraph, be a component member on December 31, 1970, of overlapping groups consisting of M and N and of N and P. If N does not file an election in accordance with subdivision (ii) of this subparagraph, the district director with audit jurisdiction of N's return will determine the group in which N is to be included.

Example (2). On each day of 1970, all the outstanding stock of corporations S, T, W, X, and Z is held in the following manner:

Individuals	Corporations				
	S	T	W	X	Z
D	60%	60%	60%	60%	60%
E	40%	0	0	0	0
F	0	40%	0	0	0
G	0	0	40%	0	0
H	0	0	0	40%	0
I	0	0	0	0	40%

On December 31, 1970, the more-than-50-percent stock ownership requirement of section 1563(a)(2)(B) may be met with regard to any combination of the corporations but all five corporations cannot be included as component members of a single controlled group because the inclusion of all the corporations in a single group would be dependent upon taking into account the stock ownership of more than five persons. Therefore, if the corporations do not file a statement in accordance with subdivision (iii) of this subparagraph, the district director with audit jurisdiction of the return of the corporation whose taxable year ends on the earliest date will determine the group in which each corporation is to be included. The corporations or the district director, as the case may be, may designate that three corporations be included in one group and two corporations in another, or that any four corporations be included in one group and that the remaining corporation not be included in any group.

PAR. 20. Section 1.1563–2 is amended by adding a new subdivision (iv) to paragraph (b)(2), by revising paragraph (b)(3), and by revising subdivision (ii) of, and adding a new subdivision (iii) to, paragraph (b)(4). These revised and added provisions read as follows:

§ 1.1563–2 Excluded stock.

* * * * *

(b) *Stock treated as excluded stock.* * * *

(2) *Stock treated as not outstanding.* * * *

(iv) *Controlled exempt organization.* Stock in the subsidiary corporation owned (directly and with the application of the rules contained in paragraph (b) of § 1.1563–3) by an organization (other than the parent corporation)—

(*a*) To which section 501 (relating to certain educational and charitable organizations which are exempt from tax) applies, and

(*b*) Which is controlled directly or indirectly by the parent corporation or subsidiary corporation, by an individual, estate, or trust that is a principal stockholder of the parent corporation, by an officer of the parent corporation, or by any combination thereof.

The terms "principal stockholder of the parent corporation" and "officer of the parent corporation" shall have the same meanings in this subdivision as in subdivision (ii) of this subparagraph. The term "control" as used in this subdivision means control in fact and the determination of whether the control requirement of (*b*) of this subdivision is met will depend upon all the facts and circumstances of each case, without regard to whether such control is legally enforceable and irrespective of the method by which such control is exercised or exercisable.

(3) *Brother-sister controlled group.* If five or fewer persons (hereinafter referred to as common owners) who are individuals, estates, or trusts own (directly and with the application of the rules contained in paragraph (b) of § 1.1563–3) stock possessing 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock in a corporation, the provisions of subparagraph (4) of this paragraph shall apply. In determining whether the stock owned by such person or persons possesses the requisite percentage of the total combined voting power of all classes of stock entitled to vote of a corporation, see paragraph (a)(6) of § 1.1563–1.

(4) *Stock treated as not outstanding.* * * *

(ii) *Employees.* Stock in such corporation owned (directly and with the application of the rules contained in paragraph (b) of § 1.1563–3) by an employee of such corporation if such stock is subject to conditions which run in favor of a common owner of such corporation (or in favor of such corporation) and which substantially restrict or limit the employee's right (or if the employee constructively owns such stock, the record owner's right) to dispose of such stock. The principles of subparagraph (2)(iii) of this paragraph shall apply in determining whether a condition satisfies the requirements of the preceding sentence. Thus, in general, a condition which extends, directly or indirectly, to a common owner or such corporation preferential rights with respect to the acquisition of the employee's (or record owner's) stock will be considered to be a condition which satisfies such requirements. For purposes of this subdivision, if a condition which restricts or limits an employee's right (or record owner's right) to dispose of his stock also applies to the stock in such corporation held by such common owner pursuant to a bona fide reciprocal stock purchase arrangement, such condition shall not be treated as one which restricts or limits the employee's (or record owner's) right to dispose of such stock. An example of a reciprocal stock purchase arrangement is an agreement whereby a common owner and the employee are given a right of first refusal with respect to stock of the employer corporation owned by the other party. If, however, the agreement also provides that the common owner has the right to purchase the stock of the employer corporation owned by the employee in the event that the corporation should discharge the employee for reasonable cause, the purchase arrangement would not be reciprocal within the meaning of this subdivision.

(iii) *Controlled exempt organization.* Stock in such corporation owned (directly and with the application of the rules contained in paragraph (b) of § 1.1563–3) by an organization—

(*a*) To which section 501(c)(3) (relating to certain educational and charitable organizations which are exempt from tax) applies, and

(*b*) Which is controlled directly or indirectly by such corporation, by an individual, estate, or trust that is a principal stockholder of such corporation, by an officer of such corporation, or by any combination thereof.

The terms "principal stockholder" and "officer" shall have the same meanings in this subdivision as in subparagraph (2)(ii) of this paragraph. The term "control" as used in this subdivision means control in fact and the determination of whether the control requirement of (*b*) of this subdivision is met will depend upon all the facts and circumstances of each case, without regard to whether such control is legally enforceable and irrespective of the method by which such control is exercised or exercisable.

* * * * *

PAR. 21. Section 1.1563–3 is amended by revising paragraphs (d)(2)(iv) and (d)(3) to read as follows:

§ 1.1563–3 Rules for determining stock ownership.

* * * * *

(d) *Special rule of section 1563(f)(3)(B).* * * *

(2) *Component member of more than one group.* * * *

(iv) If the application of subdivision (ii) or (iii) of this subparagraph does not result in a corporation being treated as a component member of only one controlled group of corporations on a December 31, then the determination of that group of which such corporation is to be treated as a component member

shall be made by the district director with audit jurisdiction of such corporation's return for the taxable year that includes such December 31 unless such corporation files an election as provided in this subdivision. The election shall be in the form of a statement, signed by a person authorized to act on behalf of such corporation, designating the group in which the corporation has elected to be included. The statement shall provide all the information with respect to stock ownership which is reasonably necessary to satisfy the district director that the corporation would, but for the election, be a component member of more than one controlled group. The statement shall be filed on or before the due date (including extensions of time) for the filing of the income tax return of such corporation for the taxable year. However, in the case of an election with respect to December 31, 1970, the statement shall be considered as timely filed if filed on or before December 15, 1971. Once filed, the election is irrevocable and effective until subdivision (ii) or (iii) of this subparagraph applies or until there is a substantial change in the stock ownership of such corporation.

* * * * *

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples, in which each corporation referred to uses the calendar year as its taxable year and the stated facts are assumed to exist on each day of 1970 (unless otherwise provided in the example):

Example (1). Jones owns all the stock of corporation X and has an option to purchase from Smith all the outstanding stock of corporation Y. Smith owns all the outstanding stock of corporation Z. Since the Y stock is considered as owned by two or more persons, under subparagraph (2)(ii) of this paragraph the Y stock is treated as owned only by Smith since he has direct ownership of such stock. Therefore, on December 31, 1970, Y and Z are component members of the same brother-sister controlled group. If, however, Smith had owned his stock in corporation Z for less than one-half of the number of days of Z's 1970 taxable year, then under subparagraph (1) of this paragraph the Y stock would be treated as owned only by Jones since his ownership results in Y being a component member of a controlled group on December 31, 1970.

Example (2). Individual H owns directly all the outstanding stock of corporation M. W (the wife of H) owns directly all the outstanding stock of corporation N. Neither spouse is considered as owning the stock directly owned by the other because each of the conditions prescribed in paragraph (b)(5)(ii) of this section is satisfied with respect to each corporation's 1970 taxable year. H owns directly 60 percent of the only class of stock of corporation P and W owns the remaining 40 percent of the P stock. Under subparagraph (2)(iii) of this paragraph, the stock of P is treated as owned only by H since H owns (directly and with the application of the rules contained in paragraph (b)(1), (2), (3), and (4) of this section) the stock possessing the greatest percentage of the total value of shares of all classes of stock of P. Accordingly, on December 31, 1970, P is treated as a component member of a brother-sister group consisting of M and P.

Example (3). Unrelated individuals A and B each owns one-half of all the outstanding stock of corporation R, which in turn owns 70 percent of the only class of outstanding stock of corporation S. The remaining 30 percent of the stock of corporation S is owned by unrelated individual C. Under the attribution rule of paragraph (b)(4) of this section, A and B each is considered as owning 35 percent of the stock of corporation S. Accordingly, since five or fewer persons own at least 80 percent of the stock of corporations R and S and also own more than 50 percent identically (A and B's identical ownership each is 35 percent), on December 31, 1970, corporations R and S are treated as component members of the same brother-sister controlled group.

PAR. 22. There is added immediately following § 1.1563–4 the following new sections:

§ 1.1564 Statutory provisions; transitional rules in the case of certain controlled corporations.

SEC. 1564. *Transitional rules in the case of certain controlled corporations*—(a) *Limitation on additional benefits*—(1) *In general.* With respect to any December 31 after 1969 and before 1975, the amount of—

(A) Each additional $25,000 surtax exemption under section 1562 in excess of the first such exemption.

(B) Each additional $100,000 amount under section 535(c)(2) and (3) in excess of the first such amount, and

(C) Each additional $25,000 limitation on the small business deduction of life insurance companies under sections 804(a)(4) and 809(d)(10) in excess of the first such limitation,

otherwise allowed to the component members of a controlled group of corporations for their taxable years which include such December 31 shall be reduced to the amount set forth in the following schedule:

Taxable years including—	Surtax exemption	Amount under sec. 535(c) (2) and (3)	Small business deduction limitation
Dec. 31, 1970	$20,833	$83,333	$20,833
Dec. 31, 1971	16,667	66,667	16,667
Dec. 31, 1972	12,500	50,000	12,500
Dec. 31, 1973	8,333	33,333	8,333
Dec. 31, 1974	4,167	16,667	4,167

(2) *Election.* With respect to any December 31 after 1969 and before 1975, the component members of a controlled group of corporations shall elect (at such time and in such manner as the Secretary or his delegate shall by regulations prescribe) which component member of such group shall be allowed for its taxable year which includes such December 31 the surtax exemption, the amount under section 535(c)(2) and (3), or the small business deduction limitation which is not reduced under paragraph (1).

(b) *Dividends received by corporations*—(1) *General rule.* If—

(A) An election of a controlled group of corporations (as defined in paragraph (1), or in so much of paragraph (4) as relates to paragraph (1), of section 1563(a)) under section 1562(a) (relating to privilege of a controlled group of corporations to elect to have each of its component members make its returns without regard to section 1561) was made on or before April 22, 1969, and

(B) Such election is effective with respect to the taxable year of each component member of such group which includes December 31, 1969,

then, with respect to a dividend distributed on or before December 31, 1977, out of earnings and profits of a taxable year which includes a December 31 after 1969 and before 1975, subsections (a)(3) and (b) of section 243 (relating to dividends received by corporations) shall be applied to such component members comprising an affiliated group (as defined in section 243(b)(5)) in the manner set forth in paragraph (2).

(2) *Special rules.* (A) An election under section 243(b)(2) may be made for a taxable year which includes a December 31 after 1969 and before 1975, notwithstanding that an election under section 1562(a) is in effect for the taxable year.

(B) Section 243(b)(1)(B)(ii) shall not apply with respect to a dividend distributed on or before December 31, 1977, out of earnings and profits of a taxable year which includes a December 31 after 1969 and before 1975 for which an election under section 1562(a) is in effect, and in lieu of the percentage specified in section 243(a)(3) with respect to such dividend, the percentage shall be the percentage set forth in the following schedule:

If the dividend is distributed out of the earnings and profits of the distributing corporation's taxable year which includes—	The percentage shall be—
December 31, 1970	87½ percent.
December 31, 1971	90 percent.
December 31, 1972	92½ percent.
December 31, 1973	95 percent.
December 31, 1974	97½ percent.

(C) For taxable years which include a December 31 after 1969 for which an election under section 1562(a) is in effect, section 243(b)(3)(C)(v) shall not be applied to limit the number of surtax exemptions.

(c) *Certain short taxable years.* If—

(1) A corporation has a short taxable year beginning after December 31, 1969, and ending before December 31, 1974, which does not include a December 31, and

(2) Such corporation is a component member of a controlled group of corporations with respect to such taxable year (determined by applying section 1563(b) as if the last day of such taxable year were substituted for December 31),

then subsections (a) and (b) shall be applied as if the last day of such taxable year were the nearest December 31 to such day.

[Sec. 1564 as added by sec. 401(b), Tax Reform Act 1969 (83 Stat. 600)]

§ 1.1564–1 Limitations on additional benefits for members of controlled groups.

(a) *In general.* Section 1564(a)(1) provides that, with respect to any December 31 after 1969 and before 1975, only one component member of a controlled group of corporations (as defined in section 1563(a)) shall be allowed the full amount of—

(1) The $25,000 surtax exemption under section 1562 (relating to election of multiple surtax exemptions),

(2) The $100,000 amount under section 535(c)(2) and (3) (relating to the accumulated earnings credit), and

(3) The $25,000 limitation on the small business deduction of life insurance companies under sections 804(a)(4) and 809(d)(10).

The amounts otherwise allowed to the other component members of such controlled group for their taxable years which include such December 31

shall be reduced to the amounts set forth in the following schedule:

Taxable years including—	Surtax exemption	Amount under sec. 535(c) (2) and (3)	Small business deduction limitation
Dec. 31, 1970	$20,833	$83,333	$20,833
Dec. 31, 1971	16,667	66,667	16,667
Dec. 31, 1972	12,500	50,000	12,500
Dec. 31, 1973	8,333	33,333	8,333
Dec. 31, 1974	4,167	16,667	4,167

(b) *Election.* (1) Section 1564(a)(2) provides that, with respect to any December 31 after 1969 and before 1975, the component members of a controlled group of corporations shall elect which component member or members of such group shall be allowed for their taxable years which includes such December 31 the full amounts described in paragraph (a)(1),(2), and (3) of this section. In making such election, the members may allocate such full amounts among themselves in any manner they choose. For example, the group may select one of its members to receive the full amount of the $25,000 surtax exemption under section 1562 and another of its members to receive the full $100,000 amount under section 535(c)(2), or it may select one of its members to claim both such full amounts.

(2) The election shall be made with respect to a particular December 31 and shall be valid only if each corporation which is a component member of the controlled group on such December 31 gives its consent. The consents shall be made by means of a statement, signed by persons duly authorized to act on behalf of each of the component members (other than wholly owned subsidiaries), stating which member has been selected to receive the amount which is not reduced under paragraph (a) of this section. The member so selected shall attach the statement to its income tax return for the taxable year including such December 31. The statement shall set forth the name, address, employer identification number, and taxable years of each of the other component members (including wholly owned subsidiaries) of the controlled group. Such other members shall attach a copy of the statement to their income tax returns for their taxable years including such December 31. An election plan adopted by a controlled group with respect to a particular December 31 shall be valid only for the taxable year of each member of the group which includes such December 31.

(3) Each component member of a controlled group which is a wholly owned subsidiary of such group with respect to a December 31 shall be deemed to consent to an election with respect to such December 31, provided each component member of the group which is not a wholly owned subsidiary consents to the election plan. A component member of a controlled group shall be considered to be a wholly owned subsidiary of the group with respect to a December 31 if, on each day preceding such date during its taxable year which includes such date, all of its stock is owned directly by one or more corporations which are component members of the group on such December 31.

[FR Doc.72-6306 Filed 4-24-72;8:51 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 3-4.54—Procurement Clearance of Audio Visual Productions

On January 18, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 743) stating that the Department of Health, Education, and Welfare was considering an amendment to 41 CFR Chapter 3 by revising Subpart 3-4.54, Procurement Clearance of Audio Visual Productions. The purpose of this revision is to clarify the scope of coverage to include all steps and techniques used to procure a finished motion picture, video tape, slide show, film strip, audio recording, exhibitry, display, or similar productions.

Interested persons were invited to submit relevant data, views, or arguments within 30 days after publication. No comments were received, so the regulation is revised and hereby adopted as set forth below.

(5 U.S.C. 301; 40 U.S.C. 486(c))

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (4-25-72).

Dated: April 11, 1972.

N. B. HOUSTON,
Deputy Assistant Secretary for Administration.

1. The table of contents for Part 3-4 is amended by changing the title of Subpart 3-4.54 as follows:

Subpart 3-4.54—Procurement Clearance of Audio Visual Productions

The revision to subpart 3-4.54 is as follows:

Subpart 3-4.54—Procurement Clearance of Audio-Visual Productions

§ 3-4.5400 Scope of subpart.

This subpart provides for prior clearance and methods of contracting for the procurement of audiovisual productions. Refer to Chapter 1-121 of the General Administration Manual. The term "audio visual production," as used in this subpart, refers to all steps and techniques leading to the realization of a finished motion picture, video tape, slide show, film strip, audio recording, exhibitry, display, or similar materials, including design, layout, preparation of scripts, filming or taping, sound recording, editing, fabrication, or other activities leading to the creation of an audiovisual production regardless of intended use. Instructions relating to procurement of such productions obtained with grant funds are contained in Chapter 1-450 of the HEW Grants Administration Manual.

§ 3-4.5401 Responsibility.

No procurement action for acquisition of audiovisual productions shall be initiated without first obtaining proper clearance and approvals as set forth below. The Office of the Assistant Secretary for Public Affairs, Office of the Secretary (ASPA-OS), has been designated as the office of primary responsibility for the review and approval of all audiovisual productions. Requests for the procurement of audiovisual productions shall be submitted to ASPA-OS for review and approval (or disapproval).

§ 3-4.5402 Clearance for procurement.

(a) Clearances shall apply to contracts dealing, in whole or in part, with development of audiovisual productions, whether for public information, education or training purposes.

(b) All requests for approval of audiovisual productions, except requests for exhibitry shall be submitted on revised Form HEW-524, Request for Audiovisual Material. Requests for audiovisual materials will be submitted to ASPA-OS for review and approval prior to initiating any procurement action. Requests for approval of exhibitry shall be submitted to ASPA-OS in memorandum form stating the purpose as well as a general description of the content, and the circumstances under which the exhibitry will be used.

(c) Each request shall include the name of the assigned project officer. Failure to assign a project officer whose experience in audiovisual production is suitable to the project will constitute sufficient reason for disapproval of the project.

(d) Each request shall have been approved at the agency level by not lower than the principal public information officer, i.e., Assistant Commissioner for Public Affairs, Assistant Administrator for Information, etc., prior to submission to ASPA-OS.

(e) Requests shall be forwarded to ASPA-OS in triplicate by the approving agency level information officer. Two copies shall be returned by ASPA-OS to the agency level information officer together with (1) a memorandum of approval designating subsequent stages of the project at which ASPA-OS will review the material, or (2) a memorandum of disapproval documenting the reason for withholding approval.

(f) The approved original of the request shall be made a part of the permanent procurement file.

§ 3-4.5403 Methods of contracting.

(a) All procurements shall be conducted on a competitive basis whenever possible. The requirement for publicizing proposed procurements by synopsis in the Commerce Business Daily, as set forth in § 1-1.1003, Federal Procurement Regulations, shall be followed.

(b) When considered desirable and appropriate to do so, current approved