

Instructions for Schedule O (Form 1120)

(Rev. December 2009)



Department of the Treasury
Internal Revenue Service

Consent Plan and Apportionment Schedule for a Controlled Group

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Purpose of Schedule

A corporation that is a component member (defined on page 2) of a controlled group must use Schedule O to report the apportionment of taxable income, income tax, and certain tax benefits between all component members of the group. These members will be subject to limitations on the use of certain tax benefits for their applicable tax year. See *Apportionment of Tax Benefit Items* on page 4.

Also use Schedule O to indicate that the member filing this return consents to and represents that all the other component members of the controlled group:

- Are adopting an apportionment plan, effective for the current tax year;
- Are amending the existing apportionment plan;
- Are terminating the existing apportionment plan and not adopting a new plan;
- Are terminating the existing apportionment plan and adopting a new plan;
- Have no apportionment plan in effect and are not adopting an apportionment plan; or
- Already have an apportionment plan in effect.

Who Must File

A corporation must file Schedule O with its income tax return, amended return, or claim for refund for each tax year that the corporation is a component member of a controlled group, even if (1) no apportionment plan is in effect, or (2) the amounts apportioned have not changed from the previous tax year. See *Definitions and Special Rules*, below.

Consolidated groups. If any of the component members of a controlled group are also members of a consolidated group, then the common parent of that consolidated group must file, as part of its consolidated

income tax return, one Schedule O on behalf of the members of that consolidated group. No subsidiary of that consolidated group should file Schedule O on its own behalf. The Schedule O should contain the required consolidated information for all members of the consolidated group. See *Identifying Information* on page 6.

Exception. If all of the members of a parent-subsidiary controlled group that are required to file a U.S. tax return join in filing the same consolidated tax return, then the parent of that group does not have to file Schedule O on behalf of the group.

Completing and Filing Schedule O

In completing Schedule O, the following apply.

- The filing of Schedule O by a component member provides the required information as to the status of the group's apportionment plan. Such information must indicate, when applicable, whether all the component members of the controlled group are adopting, amending, or terminating an apportionment plan.
- If all such members complete the required written agreement setting forth the terms of the adopted or amended apportionment plan (or an agreement to terminate a previously adopted plan), then each member of that group may rely on this agreement as the member's basis for representing on its Schedule O that the other component members of the group have also consented to adopting, amending, or terminating the apportionment plan.
- The agreement must be signed by a person authorized to sign on behalf of each component member of the controlled group and retained. No member should attach this agreement (or a copy of it) to their federal income tax returns. Each component member must keep, as part of its records, either the original or a copy of the signed agreement. The agreement must contain the group's

apportionment methodology (for example, percentages) for each tax benefit item that is apportioned.

Definitions and Special Rules

Types of Controlled Groups

Parent-subsidiary group. A parent-subsidiary group is one or more chains of corporations connected through stock ownership with a common parent corporation if:

- Stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote or at least 80% of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is directly or indirectly owned by one or more of the other corporations; and
- The common parent corporation directly or indirectly owns stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote or at least 80% of the total value of shares of all classes of stock of at least one of the other corporations, excluding, in computing such voting power or value, stock owned directly by such other corporations.

For purposes of determining whether a corporation is a member of a parent-subsidiary controlled group of corporations within the meaning of section 1563(a)(1), stock owned by a corporation means:

- Stock owned directly by the corporation, and
- Stock constructively owned by that corporation under sections 1563(e)(1), (2), and (3).

Brother-sister group. A brother-sister group generally is two or more corporations where the same five or fewer persons who are individuals, estates, or trusts directly or indirectly own stock possessing:

- At least 80% of the total combined voting power of all classes of stock entitled to vote or at least 80% of the total value of shares of all classes of

the stock of each corporation (the 80% test), and

- More than 50% of the total combined voting power of all classes of stock entitled to vote or more than 50% 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 (the 50% test).

Brother-sister group for purposes of certain tax attributes.

For purposes of allocating the following, a brother-sister group is defined using only the 50% test above:

- The taxable income brackets,
- The additional taxes,
- The alternative minimum tax (AMT) exemption amount,
- The reduction of the AMT exemption amount, and
- The accumulated earnings credit.

For purposes of determining whether a corporation is a member of a brother-sister controlled group of corporations within the meaning of section 1563(a)(2), stock owned by a person who is an individual, estate, or trust includes:

- Stock owned directly by such person, and
- Stock constructively owned under section 1563(e).

Combined group. A combined controlled group is three or more corporations each of which is a member of either a parent-subsidiary group or a brother-sister group, and at least one of which is both the common parent of a parent-subsidiary group and also a member of a brother-sister group.

Life insurance companies only group. Two or more life insurance companies subject to tax under section 801 which are members of any parent-subsidiary, brother-sister, or combined controlled group will be treated as a controlled group of corporations separate from any other type of controlled group to which these corporations would otherwise belong if they were not life insurance companies. The life insurance companies that make up a life insurance controlled group do not have to be in a direct ownership relationship with each other. For example, life insurance companies Corporation X and Corporation Z make up a life insurance company only group, where Corporation X, a life insurance company, owns all the stock of Corporation Y, a non-life

insurance company, and Corporation Y, a non-life insurance company owns all the stock of Corporation C, a life insurance company.

Exception for life-nonlife consolidated group. The rule above does not apply to any life insurance company that is a member (whether eligible or ineligible to join in filing a consolidated return) of a life-nonlife affiliated group for which a section 1504(c)(2) election is in effect. Instead, an eligible life insurance company will be treated as a member of a life-nonlife consolidated group, and an ineligible life insurance company will be treated as a member of a life-nonlife controlled group (deemed to constitute a parent-subsidiary controlled group).

Component Member

A corporation qualifies as a component member of a controlled group of corporations, for a tax year, if the corporation:

- Is not a member of the controlled group on the applicable December 31 testing date (defined on page 3), but is treated as an additional member (defined below); or
- Is a member of the controlled group on the applicable December 31 testing date and is not treated as an excluded member (defined below).

In general, in determining if a member of a controlled group is a component member of that group, the applicable tax year of that corporation must be tested to determine if it was a member of the controlled group for at least one-half of the number of days in its testing period. Also, in order to determine the applicable tax year of the member being tested, the group's testing date must be determined. See *Testing date and Testing period* on page 3.

Note. If a controlled group has an apportionment plan in effect and some of the members of that controlled group join in filing a consolidated return, then the members of that consolidated group are treated, together, as if they were a single member of the controlled group. If a controlled group does not have an apportionment plan in effect and any of the members of that group join in filing a consolidated return, then each member of that consolidated group will be treated as a separate member of the controlled group.

Additional member. A member of a controlled group is treated as an additional member if the corporation:

- Was a member of the controlled group at any time during a calendar year,
- Was not a member of the controlled group on that testing date,
- Was a member of the controlled group for at least one-half the number of days of its testing period, and
- Is not an excluded member (defined next).

Any member of a controlled group that is treated as an additional member is also treated as a component member of that group.

Excluded member. A corporation is treated as an excluded member of a controlled group of corporations on the December 31 testing date for its tax year that includes that December 31 testing date, if the corporation is:

- A member of such group for less than one-half the number of days in its testing period,
- Exempt from tax under section 501(a) (except a corporation which is subject to tax on its unrelated business taxable income) for such year,
- A foreign corporation not subject to tax under section 882(a) for such tax year,
- A life insurance company subject to tax under section 801 other than either a life insurance company which is a member of a life insurance controlled group or a life insurance company which is a member (whether eligible or ineligible) of a life-nonlife affiliated group for which a section 1504(c)(2) election is in effect,
- Not a franchised corporation as defined in section 1563(f)(4), or
- An S corporation, as defined in section 1361.

Any member of a controlled group that is treated as an excluded member is not a component member, but is a member of the group. However, no tax benefit items should be apportioned to an excluded member. And, an excluded member's taxable income is not taken into account in determining the additional taxes liability imposed by section 11(b)(1). Also, an excluded member's alternative minimum taxable income (AMTI) is not taken into account in determining the phase-out of the AMT exemption amount. If an excluded member of the group owns a controlling interest in a corporation that meets the entity status requirements for being a component

member, that corporation is a component member of the group.

Example. Domestic corporation P owns all of the stock of domestic corporation S. Domestic corporation S owns all of the stock of foreign corporation F. Foreign corporation F owns all of the stock of domestic corporation X. Corporations P, S, and X are component members of a controlled group.

Exception. A corporation that (1) was included in a controlled group at any time during its tax year, (2) was not included in that controlled group on the group's December 31 testing date, and (3) was not included in the controlled group for at least one-half the number of days of its testing period, is not treated as a component member, additional member, or excluded member.

Example. For years prior to 2009, Corporation X has been a component member of controlled group XYZ. Corporations X, Y, and Z do not file consolidated tax returns. Corporation X is on a calendar tax year. On February 28, 2009, Corporation X was sold to an unrelated party that is not a member of any consolidated group. Corporation X remained in existence throughout its entire 2009 calendar year. For the period from January 1, 2009, through February 28, 2009, Corporation X is a member of that controlled group which includes Corporations Y and Z and which has a testing date of December 31, 2009. However, Corporation X is not a component member, additional member, or excluded member of that group for that testing period. Corporations Y and Z therefore are not required to include any information about Corporation X in their respective 2009 Schedules O, filed with their 2009 income tax returns. Further, Corporation X does not have to file Schedule O with its 2009 income tax return, for the controlled group that includes Corporations Y and Z.

Testing date. The testing date is the date for determining whether amounts of certain tax benefits otherwise available to a corporation, will be limited in their use with regard to a particular tax year of a component member of a controlled group. Each member of the group uses a December 31 date, when possible, as its testing date, whether such member uses a calendar, or fiscal, tax year. When a member of a controlled group qualifies as a

component member of that group on a particular December 31 date, it will be required to limit its use of certain specified tax benefits with regard to a tax year that includes a December 31 date. Each member of the group uses the December 31 date included within that member's tax year as its testing date, whether such member uses a calendar, or fiscal, tax year. However, if a component member of a controlled group has a short tax year that does not include a December 31 date, then the last day of that short tax year will be the testing date for that member. See *Special allocation rules for a short tax year* on page 4. Each member of a controlled group will apply those limitations to that tax year that is governed by the applicable December 31 testing date applied to that group.

Testing period. The testing period is the time period for determining whether a particular member of a controlled group qualifies either as a component member, or as an excluded member. The testing period begins on the first day of that member's tax year and ends on the day before its testing date. However, for a component member having a short tax year not including a December 31 date, the last day of its short tax year is deemed to function as the December 31 testing date for that member only. For a member on a full fiscal tax year, the portion of its tax year beginning on the December 31 testing date and ending on the last day of its tax year is not taken into account for determining its status either as a component member or as an excluded member. In determining how many days comprise a member's testing period, the group takes into account the day that the member is sold, but does not take into account either the day that such member is acquired, or the member's December 31 testing date.

Overlapping Groups

If a corporation is a component member of more than one controlled group of corporations with respect to any tax year, that corporation will be treated as a component member of only one controlled group. The determination as to the group of which such corporation is a component member shall be made under regulations prescribed by the Secretary.

Excluded Stock

To be a member of a controlled group, a corporation cannot be

connected through stock ownership based on "excluded stock." Excluded stock includes:

- Nonvoting stock which is limited and preferred as to dividends,
- Treasury stock, and
- Stock which is treated as excluded stock under section 1563(c)(2)(A) for a parent-subsidiary controlled group or section 1563(c)(2)(B) for a brother-sister controlled group.

Apportionment Plan

An apportionment plan is an agreement between the component members of a controlled group of corporations for apportioning certain corporate tax benefits among the members of that group, such as the apportioning of bracketed income amounts entitled to different tax rates. By contrast, a tax sharing agreement is an agreement entered into between members of an affiliated group of corporations which have joined in the filing of a consolidated tax return. Such an agreement generally provides that the members of the affiliated group will compensate each other for certain tax benefits incurred by members separately and shared by all members on the consolidated tax return.

An apportionment plan becomes effective for a controlled group when it is adopted by all the component members of that group for their tax years which are subject to the same December 31 testing date. Once the members of a controlled group adopt an apportionment plan, it remains in effect until it is terminated.

Amending or terminating an apportionment plan. An apportionment plan is amended when the same component members (for example, when no component members have left or joined the group during their testing periods governed by the applicable December 31 testing date) make any different apportionment of the specified tax-benefit items among themselves.

An apportionment plan is terminated when each component member of the controlled group consents or is deemed to consent to the termination of that plan. Each such member is deemed to have consented to the termination of the plan for a tax year if:

- The controlled group ceased to remain in existence (within the meaning of section 1563) as of the testing date for that calendar year,

- A corporation that was a component member of the group on the testing date in the preceding tax year is not a component member on the testing date in the current tax year, or
- A corporation that was not a component member of the group on the testing date in the preceding tax year is a component member on the testing date in the current tax year.

Exception. If the members of a consolidated return group are treated as if they are one component member, then changes as to the members which belong to that consolidated group (as long as that consolidated group remains in existence within the meaning of Regulations section 1.1502-75(d)) will not serve to terminate the group's apportionment plan.

Apportionment of Tax Benefit Items

Apportionment plan in effect. If the component members of a controlled group have an apportionment plan in effect, they must apportion the specified tax-benefit items, such as the tax bracket amounts, according to the terms of that plan. The component members of a group are not required to apportion equally any tax-benefit item among each of them. Nor is any component member required to adopt the same percentage of apportionment for each tax-benefit item. A group therefore may apportion all, some, or none of the amount of any these tax-benefit items to a component member. However, except for a member with a short tax year that does not include a December 31 testing date, the total amount of a tax-benefit item apportioned to all the component members of the group cannot be more than the total amount of a tax item that would be allowed to a corporation that is not subject to the limitations imposed on the members of a controlled group. See *Special allocation rules for a short tax year*, below.

No apportionment plan in effect. If no apportionment plan is adopted or in effect, the component members of a controlled group must divide the amount of any tax-benefit item equally among themselves (without regard to whether any members are also members of a consolidated return group).

Example. The Controlled Group ABCDE consists of Corporations A, B, C, D, and E. Corporations B, C, D, and E file a consolidated return. However, since the controlled group does not have an apportionment plan in effect, each member of the consolidated group is treated as a separate member of the controlled group. Therefore, corporations A, B, C, D, and E are required to allocate one-fifth of the tax-bracketed income amounts between them in the following manner:

- \$10,000 (one-fifth of \$50,000) on Part II, column (c),
- \$5,000 (one-fifth of \$25,000) on Part II, column (d), and
- \$1,985,000 (one-fifth of \$9,925,000) on Part II, column (e).

Special allocation rules for a short tax year. Special apportionment rules apply to the tax bracket amount and the accumulated earnings credit, if a component member has a short tax year that does not include a December 31 date. A corporation's tax year will end before the last day of its annual tax year and will have a short tax year if:

- The corporation is sold to a consolidated group, or
- The corporation is merged or liquidated, including a deemed liquidation resulting from a section 338 election.

Example. For years prior to 2009, Corporation X has been a member of controlled group XYZ and has a calendar tax year. On May 31, 2009, Corporation X is liquidated. Corporation X has a short tax year that begins on January 1, 2009, and ends on May 31, 2009. Corporation X therefore applies the special allocation rule to the tax bracket amount and the accumulated earnings credit.

Determining the amount to be apportioned. A short-year member cannot use the group's apportionment method for determining the amount of a tax-benefit item to be apportioned to it for its short tax year, even though that method has been adopted by the group under its existing apportionment plan. Rather, the short-year member must divide the full amount of the tax-benefit item by the number of component members in the controlled group as of the last day of that member's short tax year. That amount is the amount of that tax-benefit item to be allocated to that member (and only to that member). The remaining component members will, in accordance with the terms of

their apportionment plan, apportion a full amount of each specified tax-benefit item between those corporations which are the component members of the group as of the ensuing December 31 testing date.

Calculation of the additional taxes. A component member with a short tax year determines its liability for additional taxes imposed by section 11(b)(1) solely for its own taxable income. The remaining component members will determine their additional taxes based on their own combined income.

AMT calculation. If a component member has a short tax year, whether or not that tax year includes a December 31 testing date, see the annualization rule of section 443(d) for calculating the member's AMT.

See section 1561 and the related regulations for additional details regarding apportionment plans and a listing of some of the tax-benefit items.

Exceptions. This special apportionment rule does not apply if a component member has a short tax year that includes the December 31 testing date in its short tax year. For example, Corporation Y is a fiscal year taxpayer with a tax year ending on September 30. On January 31, 2009, Corporation Y is liquidated. Corporation Y's tax year beginning on October 1, 2008, and ending on January 31, 2009, is not a short tax year within the meaning of section 1561(b). Thus, the normal apportionment rules apply.

This special allocation rule also does not apply if a member of a controlled group has a short tax year and is a member of a consolidated group. Instead, such corporation's income for the short tax year is included in the consolidated return filed by the consolidated group for that corporation's tax year.

Component Member's Liability for its Additional Taxes

To determine a component member's liability for its additional taxes imposed by section 11(b)(1), each of the component members of a controlled group, for their tax years that are subject to the same December 31 testing date, must:

- Combine their taxable incomes from such tax years,
- Determine the amount of the additional taxes imposed by section

11(b)(1) by applying the appropriate tax rate (see *Determining the amount of additional taxes*, later) to the amount of such combined taxable income, and

- Apportion that amount among those members by applying the proportionate method (defined later in these instructions), unless all of those members instead elect to apply the FIFO method (defined later in these instructions).

Combined taxable income. All the component members of a controlled group, to which any part of a tax bracket was apportioned, must combine their taxable incomes for their tax years that are subject to the same December 31 testing date. Each corporation that is a component member of a controlled group must include its income for its entire tax year (their tax years that are subject to the same December 31 testing date) in the calculation of the combined taxable income, even if it was not a member of the group for each day of that tax year.

In determining the additional taxes, only the positive taxable incomes of those component members of a controlled group, to which any part of a tax bracket amount were apportioned, are combined for purposes of determining the liability of those members. If a component member incurs a loss for the tax year, the member is treated as having zero taxable income for purposes of determining the controlled group's combined taxable income.

Example. A controlled group includes Corporations X, Y, and Z. For the 2009 calendar tax year, Corporation X has taxable income of \$80,000, Corporation Y has taxable income of \$70,000, and Corporation Z incurred a loss of (\$60,000). Under the XYZ apportionment plan, Corporation Z was apportioned \$1 of the \$50,000 amount under the 15% tax bracket and Corporations X and Y were equally apportioned the remaining amount. The combined taxable income of the XYZ controlled group is \$150,000 (\$80,000 + \$70,000). Thus, the XYZ group is liable for the additional taxes. Corporation Z's loss is not taken into account in determining the combined taxable income of the controlled group.

Note. If a component member has subsequent positive adjustments to its taxable income (for example, the result of an IRS audit), for a tax year (the adjustment year), all the

members of the controlled group for their tax years that share the same testing date as that adjustment year, must redetermine the amount of any additional taxes imposed by section 11(b)(1) and pay those additional taxes. These corporations have this responsibility even if none of the corporations that were component members of the group in the adjustment year still remain as component members of the group.

Determining the amount of additional taxes. After the component members of a controlled group have determined their combined taxable income, those members must determine if they are liable for any additional taxes imposed by section 11(b)(1) in the following manner.

- If that combined taxable income exceeds \$100,000, but is not greater than \$335,000, the total amount of the liability for additional tax of such members is the lesser amount of 5% of such excess or \$11,750 (the 5% additional tax).
- If that combined taxable income exceeds \$335,000, but is not greater than \$15,000,000, the total amount of the liability for the 5% additional tax of such members will be reflected in its aggregate income tax liability. No allocation is necessary and no such allocation needs to be reported in Part III of Schedule O.
- If that combined taxable income exceeds \$15,000,000, but is not greater than \$18,333,333, the total amount for that additional tax liability is the lesser of 3% of such excess, or \$100,000 (the 3% additional tax). Thus, a controlled group with a combined taxable income that exceeds \$15,000,000 will be liable for not only the 3% additional tax, but also the full amount of the 5% additional tax, or \$11,750.
- A controlled group with a combined taxable income that exceeds \$18,333,333 will be liable for the full amount of the additional taxes, or \$111,750. That amount will be reflected in the group's aggregate income tax liability and is not required to be separately reported in Part III of Schedule O. The additional taxes will not require any apportionment among the component members of the group.



See the tax rate schedule in the *Instructions for Form 1120, U.S. Corporation Income Tax Return*, which effectively incorporates both of the additional taxes imposed by section 11(b)(1) by

imposing a 39% tax on taxable income over \$100,000, but not over \$335,000, and also imposing a 38% tax on taxable income over \$15,000,000, but not over \$18,333,333.

Apportioning the additional taxes. The additional taxes imposed by section 11(b)(1) must be apportioned among the component members in the same manner as the applicable tax bracket amount is apportioned. The component members are required to use the proportionate method unless all component members affirmatively elect to adopt the FIFO method by checking the box on line 7b. See the instructions for line 7 on page 7.

The proportionate method. Under the proportionate method, the additional taxes are allocated to each component member to which a tax bracket amount was apportioned, in the same proportion as the portion of the tax-benefit from that tax bracket which was allocated bears to the total tax-benefit amount provided to all members from the use of that tax bracket. These tax-benefits are attributable to the tax savings that the members of the group realized from having tax bracket amounts taxed at a lower rate instead of the higher tax rates to which income of the group would otherwise be subject.

The steps for applying the proportionate method are as follows:

Step 1. The regular tax (not including the additional taxes imposed by section 11(b)(1)) owed by a component member under a particular tax bracket is divided by the total tax owed by all component members under that tax bracket.

The maximum amount of tax that a corporation owes under the 15% tax bracket is \$7,500. The maximum amount of tax that a corporation owes under the 25% tax bracket is \$6,250. The maximum amount of tax that a corporation owes under the 34% tax bracket is \$3,374,500.

Step 2. The percentage calculated under step 1 is multiplied by the total tax-benefit amount received by all the members of the group from their use of this tax bracket. This computed amount equals the portion of the group's tax-benefit amount received by a particular member from using its portion of this tax bracket.

Step 3. The amount determined under step 2 is divided by the total tax-benefit amount, received by all the component members of the group

from using all the tax brackets to which any component member's income was subject.

Step 4. The percentage calculated under step 3 is multiplied by the amount of the group's additional taxes. The amount determined under this step 4 equals the amount of the additional taxes apportioned to such component member for that tax bracket.

Step 5. If a component member is liable for regular tax (not including the additional taxes imposed by section 11(b)(1)) under more than one tax bracket, that member must calculate the amount of additional taxes with respect to each tax bracket to be apportioned to that member.

Accordingly, steps 1 through 4 must be applied for each tax bracket applicable to that member. The sum of all the amounts of additional taxes apportioned to a component member from each tax bracket, to which that member is subject, is the total amount of the additional taxes apportioned to that member.

The FIFO method. Under a first-in-first-out (FIFO) method for allocating the additional taxes among the component members of the controlled group, the first dollars of additional taxes imposed by section 11(b)(1) owed by the component members of a controlled group are to be allocated proportionately to those members availing themselves of the lowest tax bracket (the first tax bracket), up to the amount of the tax-benefit received by those members from having availed themselves of that tax-bracket amount. Any remaining amount of unallocated additional taxes is then allocated proportionately among the component members which avail themselves of the next higher tax bracket, and so on, until the entire amount of the additional taxes has been fully apportioned among the component members. For example, the first \$9,500 of additional tax liability of a controlled group is apportioned entirely to the component members that availed themselves of the benefit of the 15% tax bracket.

Allocation of AMT Exemption Amount and the Reduction of the AMT Exemption Amount

In determining the AMT liability of a corporation, the amount of AMTI to which the AMT rate is applied is reduced by the \$40,000 AMT

exemption amount. For a controlled group of corporations, the AMT exemption amount must be apportioned among the component members of the group. That amount must be divided equally among the component members for those tax years, which are subject to the same December 31 testing date, except where all those members have adopted an apportionment plan providing for an unequal apportionment of the AMT exemption amount. If so, the component members of the group will apportion the AMT exemption amount according to the terms of that apportionment plan.

The \$40,000 AMT exemption amount shall be reduced, but not below zero, as the amount of AMTI increases. For a controlled group of corporations, to compute the amount of this reduction to the AMT exemption amount, the AMTI of all component members must be combined in order to compute the amount of that reduction. This exemption amount completely phases out when a controlled group's combined AMTI is at least \$310,000. This reduction to the AMT exemption amount will effectively be allocated to each of the component members to which the exemption amount was apportioned and will effectively be apportioned to the component members in the same manner as is the exemption amount.

Only the positive AMTI of those component members of a controlled group are combined for purposes of determining those members' reduction of the AMT exemption amount.

Report the AMT exemption amount and the phaseout of the exemption amount in Part IV, columns (c) and (d), respectively.

Specific Instructions

Identifying Information

Component member filing Schedule O. On page 1, enter the name and employer identification number (EIN) of the component member filing this Schedule O.

In Part II, column (a), line 1, enter the component member's name and EIN. In column (b), enter the member's tax year ending date (Yr-Mo). In Parts III and IV, column

(a), line 1, enter only the name of the component member.

Other component members of the controlled group. For Parts II, III, and IV, column (a), lines 2 through 10, and Part II, column (b), enter the corresponding information for each of the other component members of the controlled group, in the same manner as the member filing this Schedule O. If more space is needed, attach additional sheets.

Consolidated groups. If several component members are also members of a single consolidated group, then with respect to those members, in Parts II, III, and IV, column (a), and Part II, column (b), enter only the information of the common parent of the consolidated group.

 **TIP** *If any component members of the controlled group are also members of a consolidated group, the parent of such consolidated group should file only one Schedule O on behalf of all such members of the controlled group. Such form must contain the required information for each such member. See Regulations section 1.1561-3(a)(2).*

Part I. Apportionment Plan Information

Line 1. Type of controlled group. A component member of a controlled group must check the applicable box to indicate the type of group. For more information, see *Types of Controlled Groups* on page 1.

For a brother-sister controlled group, check box 1b whether that group is a brother-sister group for purposes of applying only the 50% test, or for purposes of applying both the 80% and 50% test.

Line 2. Member status. If a corporation was not a component member of the group for each day of its tax year, check box 2b and provide the required information. If the taxable year of this corporation does not include a December 31 date, a special apportionment rule applies. See *Special allocation rules for a short tax year* on page 4.

Line 3. Consent and represent. If all the component members consent to adopt an apportionment plan, check box 3a. By checking box 3a, this corporation is consenting to the adoption of an apportionment plan and is also representing that the other component members of the group are

also consenting to the adoption of that plan. See *Completing and Filing Schedule O* on page 1.

If all the component members consent to amend an apportionment plan, check box 3b. By checking box 3b this corporation is consenting to the amendment of an apportionment plan and is also representing that the other component members of the group are consenting to the amendment of that plan. However, to amend a plan both of the following conditions must be satisfied.

- The controlled group already has an apportionment plan in effect, and
- There has been no change in the component-member composition of the group from the previous taxable year.

If the component members of a group are either adopting a new apportionment plan or amending an existing apportionment plan that involves prior tax years of those component members, at least one year must remain on each of the statutes of limitations for assessing a tax deficiency against all of the component members of the group for such prior tax years. See the instructions for line 6 below.

If the apportionment plan for the component members of a controlled group is terminated:

- Check box 3c, if the remaining component members choose not to adopt (or are not able to adopt) a new apportionment plan; or
- Check box 3d, if the remaining component members choose to adopt a new apportionment plan.

With regard to box 3c, the remaining component members will not be able to adopt a new apportionment plan if, for example, such component members have left the group.

Example. For years prior to 2009, Corporation X has been a member of controlled group XYZ and has a calendar tax year. Corporations X, Y, and Z are component members of a controlled group and each has a calendar tax year. On August 31, 2009, X is sold to an unrelated party. Even though X will not be a member of the group on its December 31, 2009, testing date, it is treated as an additional member of the group on that date. Consequently, for 2009 the XYZ controlled group must apportion the tax-benefit items according to the terms of its apportionment plan. Therefore, X, Y, and Z would each check box 3c on its 2009 Schedule O.

If box 3c or 3d is checked, complete Parts II, III, and IV under either of the following circumstances.

- If a corporation which is joining or leaving the group still qualifies as a component member for its tax year, complete Parts II, III, and IV according to the terms of any applicable apportionment plan.
- If a corporation which is joining or leaving the group will not qualify as a component member for its tax year then, following the corporation's name in column (a), enter the notation "(E)" for excluded member. In Part II, column (b), enter the ending date of the tax year (Yr-Mo) and enter "0" in the remaining columns, as applicable. The remaining component members of the group will apportion the various tax items according to terms of any newly adopted apportionment plan, in the event a new apportionment plan is adopted by those remaining members.

Note. Do not check more than one box on line 3. If a corporation does not adopt an apportionment plan, amend a previous apportionment plan, or terminate an existing apportionment plan, skip line 3 and go to line 5.

Line 4. Reason for termination of existing apportionment plan.

Check box 4a if all the component members of a controlled group of corporations are consenting to terminate the apportionment plan. Check box 4b if:

- The controlled group has ceased to remain in existence within the meaning of section 1563,
- A corporation that was a component member of the group on the testing date for the preceding tax year is no longer a component member in the current tax year, or
- A corporation that was not a component member of the group on the testing date for the preceding tax year is a component member for the current tax year.

Line 5. Status of apportionment plan. Check the applicable box to indicate the status of any apportionment plan of the controlled group.

- Check box 5a, if the controlled group does not have an apportionment plan in effect and is not adopting one.
- Check box 5b, if the controlled group already has an apportionment plan in effect and is not amending or terminating this plan.

If box 5a is checked, then the component members must share all tax-benefits equally and tax-benefit information is to be reported in Parts II, III, and IV.

Line 6. Statute of limitations. An apportionment plan may not be adopted or amended for a tax year of a component member unless there is at least one year remaining in the statutory period (including any extensions) for assessing a deficiency against the corporation for that tax year, but only where the tax liability for such tax year of that corporation would be increased by adopting such plan.

If there is less than one year remaining in the statutory period, the corporation must have entered into an agreement with the IRS extending the statutory period for the limited purpose of assessing any deficiency against that corporation for a tax year affected by the adoption or the amendment of an apportionment plan. See Regulations section 1.1561-3(c)(2).

Line 7. Required information and elections under section 1561. The component members of a controlled group must determine their additional taxes liability, as imposed by section 11(b)(1), for their tax years that are subject to the same December 31 testing date by combining their taxable incomes for such tax years and then apportioning the additional taxes among such component members in the same manner that the tax brackets were so allocated. See *Component Member's Liability for its Additional Taxes* on page 4.

If a corporation does not know the combined taxable income of the other component members of its group (for example, because those other component members have adopted substantially different tax years), it can avoid underpayment of tax by applying the maximum tax rate of 35% to the entire amount of its taxable income. If the corporation later determines its tax liability is less, it may file a claim for refund of overpayment.

Line 7a. A corporation choosing to compute its tax liability by applying the maximum 35% rate to the entire amount of its taxable income should check box 7a. Further, a corporation checking box 7a does not have to provide taxable income or tax apportionment information with respect to the other component members of the group. Instead, only

provide the identifying information (for example, name, EIN, and ending date of the tax year) for these other members. Enter zero in the other columns for these members.

Line 7b. The controlled group may elect to apportion their additional taxes liability under the FIFO method, rather than the proportionate method. To make this election, each component member of the group must check box 7b. If the members do not check box 7b, they will be required to apportion their additional taxes liability using the proportionate method of allocation. See *The proportionate method* on page 5 and *The FIFO method* on page 6.

Line 7c. If a component member of a controlled group of corporations has a short tax year that does not include a December 31 date, check box 7c. If a corporation checks box 7c, it does not have to provide taxable income or tax apportionment information with regard to the other component members of the group. Instead, only provide the identifying information (for example, name, EIN, and ending date of the tax year) for these other members. See *Special allocation rules for a short tax year* on page 4.

Part II. Taxable Income Apportionment

Enter each component member's share of the taxable income used from each tax bracket, as is applicable. The component members of a controlled group, collectively, are entitled to one \$50,000, one \$25,000, and one \$9,925,000 taxable income bracket amount (in that order) for columns (c), (d), and (e).

Note. If a corporation has a loss, enter zero in columns (c) through (g).

Column (c). Enter the lesser of the corporation's taxable income (as shown on Form 1120, page 1, line 30, or on the comparable line of the corporation's income tax return) or the corporation's computed share of the \$50,000 bracket.

Column (d). Enter the lesser of the corporation's taxable income (as shown on Form 1120, page 1, line 30, or on the comparable line of the corporation's income tax return) minus the amount entered for this corporation in column (c), or the corporation's computed share of the \$25,000 bracket.

Column (e). Enter the lesser of the corporation's taxable income (as

shown on Form 1120, page 1, line 30, or on the comparable line of the corporation's income tax return) minus the amounts entered for this corporation in columns (c) and (d), or the corporation's computed share of the \$9,925,000 bracket.

Column (f). Enter the corporation's taxable income (Form 1120, page 1, line 30, or the comparable line of the corporation's income tax return) minus the amounts entered for this corporation in columns (c) through (e).

Column (g). Enter the total allocated taxable income amounts of each component member (add columns (c) through (f)). Each total in Part II, column (g), for each component member must equal Form 1120, page 1, line 30, or the comparable line of such component member's income tax return.

Part III. Income Tax Apportionment

Column (b). Multiply the taxable income amount in Part II, column (c) by 15% (0.15) and enter the result here.

Column (c). Multiply the taxable income amount in Part II, column (d) by 25% (0.25) and enter the result here.

Column (d). Multiply the taxable income amount in Part II, column (e) by 34% (0.34) and enter the result here.

Column (e). Multiply the taxable income amount in Part II, column (f) by 35% (0.35) and enter the result here.

Column (f) and (g). A corporation's share of any additional taxes liability imposed by section 11(b)(1) is determined as explained in *Determining the amount of additional taxes* on page 5.

Column (h). Enter here the total apportioned income tax for each component member. Combine all the amounts of apportioned tax of each such member, as shown in columns (b) through (g).

Part IV. Other Apportionments

Brother-sister controlled group. For purposes of apportioning the amounts included in columns (b) through (d), determine the component members of a brother-sister controlled group, using only the 50% test as provided in section 1563(a)(2).

For purposes of apportioning the amounts included in column (e) and, except as provided elsewhere in the Internal Revenue Code, in column (f), determine the component members of a brother-sister controlled group using both the 50% and 80% tests as provided in section 1563(f)(5). See *Brother-sister group* on page 1.

Column (a). If a corporation qualifies as a component member of a brother-sister controlled group, solely because it satisfies only the 50% ownership affiliation test, insert the notation "(50)" after that corporation's name. If a corporation is a component member of that group because it satisfies both the 50% and 80% ownership affiliation tests, no notation is necessary.

Column (b). The component members of a controlled group may allocate the \$250,000 accumulated earnings credit unequally if they adopt an apportionment plan or have an apportionment plan in effect.

Note. If any component member of a controlled group is the type of service corporation described in section 535(c)(2)(B), the amount to be apportioned among the component members is \$150,000 (rather than \$250,000).

Column (c). The component members of a controlled group may allocate the \$40,000 AMT exemption amount unequally if they adopt an apportionment plan or have an apportionment plan in effect.

Column (d). The component members of a controlled group must apportion the reduction to the AMT exemption amount to the same corporations, and in the same proportions, as the AMT exemption amount was apportioned in Column (c). If the combined AMTI of the members of the group is at least \$310,000, the corporation is not required to complete columns (c) and (d) of Part IV, since the exemption amount phases out at \$310,000. See *Allocation of AMT Exemption Amount and the Reduction of the AMT Exemption Amount* on page 6.

Column (e). For purposes of determining whether the component members of a controlled group are subject to a penalty for failure to pay the correct amount of estimated tax under section 6655(g), those component members of a controlled group must combine their taxable incomes for their tax years that were subject to the same December 31 testing date. If that amount is at least

\$1 million for any tax year during the testing period (as defined in section 6655(g)(2)(B)(i)), those members must then divide that \$1 million amount equally unless they have an apportionment plan in effect.

Column (f). Enter each component member's share of any other

tax-benefit items not included in columns (b) through (e). Provide the applicable Internal Revenue Code section followed by the amount apportioned to that member.

Note. Do not include on Schedule O an apportionment among the

component members of any deduction for certain depreciable property for which a section 179 expense election has been made. Report this apportionment as required under section 179. See Regulations section 1.179-2(b)(7).