

§ 1.381(c)(21)-1

June 30, 1957, because of the 5-percent limitation prescribed by section 170(b)(2), an aggregate of \$16,000. Inasmuch as Y Corporation's limitation for the short taxable year ended November 30, 1957, exceeds the contributions made in that year by \$1,000, the excess contributions of the second preceding taxable year are deductible in the taxable year ending November 30, 1957, to the extent of \$1,000 and the remainder (\$15,000) is not deductible by any corporation in any taxable year. The excess contributions of the first preceding taxable year, namely, X Corporation's excess contributions made in the short taxable year ending June 30, 1957, are deductible by Z Corporation in its taxable year 1958, in the manner and to the extent prescribed in section 170(b)(2) and this section.

(v) Z Corporation has been in existence for 3 taxable years. The contributions made in 1956 in excess of the amount deductible for that year under section 170(b)(2) amounted to \$30,000. Such excess is deductible by Z Corporation in its taxable year 1957 and, together with X Corporation's excess contributions of \$6,000 (derived through Y Corporation) made in the taxable year ending June 30, 1957, in the taxable year 1958, in each instance in the manner and to the extent prescribed by section 170(b)(2) and this section. Thus, \$2,000 of the \$30,000 excess contributions made in the year 1956 are deducted in 1957 and the remainder (\$28,000), together with X Corporation's excess contributions of \$6,000 made in the short taxable year ending June 30, 1957, are deducted in 1958 since the aggregate of such amounts plus the contributions actually made in that year does not exceed the 5-percent limitation prescribed by section 170(b)(2).

[T.D. 6552, 26 FR 1992, Mar. 8, 1961, as amended by T.D. 6900, 31 FR 14642, Nov. 17, 1966; T.D. 7207, 37 FR 20795, Oct. 5, 1972]

§ 1.381(c)(21)-1 Pre-1954 adjustments resulting from change in method of accounting.

(a) *Carryover requirement.* Section 381(c)(21) provides that, in a transaction to which section 381(a) applies, an acquiring corporation shall take into account the net amount of any adjustments described in section 481(b)(4) (relating to adjustments arising from changes in accounting methods initiated by the taxpayer attributable to pre-1954 Code years) of the distributor or transferor corporation to the extent that such net amount of such adjustments has not been taken into account in any taxable year, including a short taxable year, by the distributor or transferor corporation. The acquiring corporation shall take into account in

each taxable year beginning with the taxable year ending after the date of distribution or transfer the net amount of such adjustments in the same manner and at the same time as such net amount would have been taken into account by the distributor or transferor corporation. Thus, the amount of any such adjustment which the acquiring corporation shall take into account in each taxable year shall be the same amount that would have been taken into account in each taxable year by the distributor or transferor corporation.

(b) This section may be illustrated by the following example:

Example. On January 1, 1960, X Corporation, a calendar year taxpayer, voluntarily changed its method of accounting giving rise to a \$50,000 adjustment under section 481(a), of which \$20,000 is attributable to pre-1954 Code years. Under section 481(b)(4) the \$20,000 adjustment is to be spread over 1960 and the following 9 years at the rate of \$2,000 each year. On November 1, 1963, all the assets of X Corporation are acquired by Y Corporation in a transaction to which section 381(a) applies. Y Corporation reports its income on a fiscal year ending June 30. X and Y Corporations must take into account the \$20,000 adjustment at the rate of \$2,000 in each taxable year in the following time and manner:

X Corporation		
Calendar years 1960-62 (\$2,000×3)	\$6,000	
Short taxable year ending Nov. 1, 1963 (\$2,000×1)	2,000	\$8,000
Y Corporation		
Fiscal years ending:		
June 30, 1964 (\$2,000×1)	2,000	
June 30, 1965-69 (\$2,000×5)	10,000	12,000
		20,000

(c) *Successive transactions to which section 381(a) applies.* The provisions of this section shall apply in the case of successive transactions to which section 381(a) applies. Thus, if R Corporation, which was taking into account adjustments described in section 481(b)(4), distributes or transfers its assets to S Corporation in a transaction to which section 381(a) applies, and S Corporation was required to take into account any remaining portion of such adjustments under section 381(c)(21) and this section, and if subsequently S Corporation distributes or transfers its assets to T Corporation in a transaction to which section 381(a) applies, then T Corporation, under section

381(c)(21) and this section, shall take into account any remaining portion of such adjustments not previously taken into account by R and S Corporations.

(d) *Acquiring corporation not receiving all the assets.* The adjustments described in this section acquired from a distributor or transferor corporation by an acquiring corporation in a transaction to which section 381(a) applies is not reduced by reason of the fact that the acquiring corporation does not acquire 100 percent of the assets of the distributor or transferor corporation.

[T.D. 6553, 26 FR 2171, Mar. 15, 1961]

§ 1.381(c)(22)-1 Successor life insurance company.

(a) *Carryover requirement.* If in a taxable year beginning after December 31, 1957, a distributor or transferor corporation which is a life insurance company (as defined in section 801(a)) is acquired by a corporation which is a life insurance company (as defined in section 801(a)), in a transaction to which section 381(a) applies, section 381(c)(22) provides that the acquiring corporation shall take into account the appropriate items which the distributor or transferor corporation was required to take into account for purposes of part I, subchapter L, chapter 1 of the Code. Furthermore, except as otherwise provided by this section, the acquiring corporation shall take into account the items described in paragraphs (2) through (21), other than paragraphs (14), (15), and (17), of section 381(c) and the regulations thereunder. For example, the acquiring corporation shall take into account the reserves described in section 810(c) distributed or transferred to it as of the close of the date of distribution or transfer by the distributor or transferor corporation in accordance with the provisions of section 381(c)(4) and the regulations thereunder. For provisions defining the date of distribution or transfer, see paragraph (b) of § 1.381(b)-1.

(b) *Items required to be taken into account by acquiring corporation.* If a transaction meets the requirements of paragraph (a) of this section, the acquiring corporation shall, except as otherwise provided, take into account as of the close of the date of distribution or transfer the following items of

the distributor or transferor corporation:

(1) The operations loss carryovers (as determined under section 812), subject to conditions and limitations consistent with the conditions and limitations prescribed in section 381(c)(1) and the regulations thereunder. For example, a loss from operations for a loss year of a distributor or transferor corporation which ends on or before the last day of a loss year of the acquiring corporation shall be considered to be a loss from operations for a year prior to such loss year of the acquiring corporation. All references in section 381(c)(1) and the regulations thereunder to section 172 shall be construed as referring to the appropriate corresponding provisions of section 812. Thus, a reference to section 172(b) shall be construed as referring to section 812 (b) and (d). In determining the span of years for which a loss from operations may be carried, the number of taxable years for which the distributor or transferor corporation was authorized to do business as an insurance company shall be taken into account. For purposes of this determination, the taxable year of the distributor or transferor corporation which ends on the date of distribution or transfer shall be taken into account even though such taxable year is a period of less than 12 months.

(2)(i) The investment yield and the beginning of the year asset balance for the distributor or transferor corporation's taxable year ending with the close of the date of distribution or transfer. Such items shall be integrated with the investment yield and beginning of the year asset balance of the acquiring corporation for its first taxable year ending after such date of distribution or transfer for purposes of determining the current earnings rate of the acquiring corporation for such taxable year. Furthermore, for purposes of determining the average earnings rate of the acquiring corporation, the investment yield and mean of the assets of the distributor or transferor corporation for its 4 taxable years immediately preceding its taxable year which closes with the date of distribution or transfer shall be integrated with the investment yield and mean of