

church. Admission to Organization B is open to all members of the community for a fee. Organization B advertises in publications of general distribution appealing to the elderly and maintains its name on non-denominational listings of available retirement homes. Therefore, Organization B offers its services for sale to the general public on more than an incidental basis. Organization B receives a cash contribution of \$50,000 annually from the church. Fees received by Organization B from its residents total \$100,000 annually. Organization B does not receive any government support or contributions from the general public. Total support is \$150,000 (\$100,000 + \$50,000), and \$100,000 of that total is from receipts from the performance of services (66⅔% of total support). Therefore, Organization B receives more than 50 percent of its support from receipts from the performance of services. Organization B is not internally supported and is not an integrated auxiliary.

Example 3. Organization C is a hospital that is described in sections 501(c)(3) and 509(a)(1). Organization C is affiliated (within the meaning of this paragraph (h)) with a church. Organization C is open to all persons in need of hospital care in the community, although most of Organization C's patients are members of the same denomination as the church with which Organization C is affiliated. Organization C maintains its name on hospital listings used by the general public, and participating doctors are allowed to admit all patients. Therefore, Organization C offers its services for sale to the general public on more than an incidental basis. Organization C annually receives \$250,000 in support from the church, \$1,000,000 in payments from patients and third party payors (including Medicare, Medicaid and other insurers) for patient care, \$100,000 in contributions from the public, \$100,000 in grants from the federal government (other than Medicare and Medicaid payments) and \$50,000 in investment income. Total support is \$1,500,000 (\$250,000 + \$1,000,000 + \$100,000 + \$100,000 + \$50,000), and \$1,200,000 (\$1,000,000 + \$100,000 + \$100,000) of that total is support from receipts from the performance of services, government sources, and public contributions (80% of total support). Therefore, Organization C receives more than 50 percent of its support from receipts from the performance of services, government sources, and public contributions. Organization C is not internally supported and is not an integrated auxiliary.

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Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: November 27, 1995.
Leslie Samuels,
Assistant Secretary of the Treasury.
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26 CFR Parts 1, 301 and 602

[TD 8632]

RIN 1544-AM00

Section 482 Cost Sharing Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to qualified cost sharing arrangements under section 482 of the Internal Revenue Code. These regulations reflect changes to section 482 made by the Tax Reform Act of 1986, and provide guidance to revenue agents and taxpayers implementing the changes.

DATES: These regulations are effective January 1, 1996.

These regulations are applicable for taxable years beginning on or after January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Lisa Sams of the Office of Associate Chief Counsel (International), IRS (202) 622-3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1364. Responses to these collections of information are required to determine whether an intangible development arrangement is a qualified cost sharing arrangement and who are the participants in such arrangement.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The estimated average annual burden per recordkeeper is 8 hours. The estimated average annual burden per respondent is 0.5 hour.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books and records relating to these collections of information must be retained as long as their contents may

become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Section 482 was amended by the Tax Reform Act of 1986, Public Law 99-514, 100 Stat. 2085, 2561, et. seq. (1986-3 C.B. (Vol. 1) 1, 478). On January 30, 1992, a notice of proposed rulemaking concerning the section 482 amendment in the context of cost sharing was published in the Federal Register (INTL-0372-88, 57 FR 3571).

Written comments were received with respect to the notice of proposed rulemaking, and a public hearing was held on August 31, 1992. After consideration of all the comments, the proposed regulations under section 482 are adopted as revised by this Treasury decision, and the corresponding temporary regulations (which contain the cost sharing regulations as in effect since 1968) are removed.

Explanation of Provisions

Introduction

The Tax Reform Act of 1986 (the Act) amended section 482 to require that consideration for intangible property transferred in a controlled transaction be commensurate with the income attributable to the intangible. The Conference Committee report to the Act indicated that in revising section 482, Congress did not intend to preclude the use of bona fide research and development cost sharing arrangements as an appropriate method of allocating income attributable to intangibles among related parties. The Conference Committee report stated, however, that in order for cost sharing arrangements to produce results consistent with the commensurate-with-income standard, (a) a cost sharer should be expected to bear its portion of all research and development costs, on unsuccessful as well as successful products, within an appropriate product area, and the costs of research and development at all relevant development stages should be shared, (b) the allocation of costs generally should be proportionate to profit as determined before deduction for research and development, and (c) to the extent that one party contributes funds toward research and development at a significantly earlier point in time than another (or is otherwise putting its funds at risk to a greater extent than the other) that party should receive an appropriate return on its investment. See H.R. Rep. 99-281, 99th Cong., 2d Sess. (1986) at II-638.