

Section 1.482-7(i) requires that controlled participants must use a consistent accounting method for measuring costs and benefits, and must translate foreign currencies on a consistent basis. To the extent that the accounting method materially differs from U.S. generally accepted accounting principles, any such material differences must be documented, as provided in § 1.482-7(j)(2)(iv).

Section 1.482-7(j) provides simplified recordkeeping and reporting requirements. It is anticipated that many of the background documents necessary for purposes of this section will be kept pursuant to section 6662(e) and the regulations thereunder.

Section 1.482-7(k) provides that this regulation is effective for taxable years beginning on or after January 1, 1996.

Section 1.482-7(l) allows a one-year transition period for taxpayers to conform their cost sharing arrangements with the requirements of the final regulations. A longer period was not considered necessary, given the increased flexibility and the reduced number of administrative requirements of the final regulations.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Lisa Sams, Office of Associate Chief Counsel (International), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 301 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority for part 1 is amended by adding an entry for section 1.482-7 to read as follows:

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

Section 1.482-7 is also issued under 26 U.S.C. 482. * * *

Par. 2. Section 1.482-0 is amended by:

1. Removing the entry for § 1.482-7T.
2. Adding the entry for § 1.482-7 to read as follows:

§ 1.482-0 Outline of regulations under 482.

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§ 1.482-7 Sharing of costs.

- (a) In general.
 - (1) Scope and application of the rules in this section.
 - (2) Limitation on allocations.
 - (3) Cross references.
- (b) Qualified cost sharing arrangement.
- (c) Participant.
 - (1) In general.
 - (2) Active conduct of a trade or business.
 - (i) Trade or business.
 - (ii) Active conduct.
 - (iii) Examples.
 - (3) Use of covered intangibles in the active conduct of a trade or business.
 - (i) In general.
 - (ii) Example.
 - (4) Treatment of a controlled taxpayer that is not a controlled participant.
 - (i) In general.
 - (ii) Example.
 - (5) Treatment of consolidated group.
 - (d)(d) Costs.
 - (1) Intangible development costs.
 - (2) Examples.
 - (e) Anticipated benefits.
 - (1) Benefits.
 - (2) Reasonably anticipated benefits.
 - (f) Cost allocations.
 - (1) In general.
 - (2) Share of intangible development costs.
 - (i) In general.
 - (ii) Example.
 - (3) Share of reasonably anticipated benefits.
 - (i) In general.
 - (ii) Measure of benefits.
 - (iii) Indirect bases for measuring anticipated benefits.
 - (A) Units used, produced or sold.
 - (B) Sales.
 - (C) Operating profit.
 - (D) Other bases for measuring anticipated benefits.
 - (E) Examples.
 - (iv) Projections used to estimate anticipated benefits.

- (A) In general.
- (B) Unreliable projections.
- (C) Foreign-to-foreign adjustments.
- (D) Examples.
- (4) Timing of allocations.
- (g) Allocations of income, deductions or other tax items to reflect transfers of intangibles (buy-in).
 - (1) In general.
 - (2) Pre-existing intangibles.
 - (3) New controlled participant.
 - (4) Controlled participant relinquishes interests.
 - (5) Conduct inconsistent with the terms of a cost sharing arrangement.
 - (6) Failure to assign interests under a qualified cost sharing arrangement.
 - (7) Form of consideration.
 - (i) Lump sum payments.
 - (ii) Installment payments.
 - (iii) Royalties.
 - (8) Examples.e
 - (h) Character of payments made pursuant to a qualified cost sharing arrangement.
 - (1) In general.
 - (2) Examples.
 - (i) Accounting requirements.
 - (j) Administrative requirements.
 - (1) In general.
 - (2) Documentation.
 - (3) Reporting requirements.
 - (k) Effective date.
 - (l) Transition rule.

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Par. 3. Section 1.482-7 is added to read as follows:

§ 1.482-7 Sharing of costs.

(a) *In general*—(1) *Scope and application of the rules in this section.* A cost sharing arrangement is an agreement under which the parties agree to share the costs of development of one or more intangibles in proportion to their shares of reasonably anticipated benefits from their individual exploitation of the interests in the intangibles assigned to them under the arrangement. A taxpayer may claim that a cost sharing arrangement is a qualified cost sharing arrangement only if the agreement meets the requirements of paragraph (b) of this section. Consistent with the rules of § 1.482-1(d)(3)(ii)(B) (Identifying contractual terms), the district director may apply the rules of this section to any arrangement that in substance constitutes a cost sharing arrangement, notwithstanding a failure to comply with any requirement of this section. A qualified cost sharing arrangement, or an arrangement to which the district director applies the rules of this section, will not be treated as a partnership to which the rules of subchapter K apply. See § 301.7701-3(e) of this chapter. Furthermore, a participant that is a foreign corporation or nonresident alien individual will not be treated as engaged in trade or business within the United States solely