

participants in a qualified cost sharing arrangement must use a consistent method of accounting to measure costs and benefits, and must translate foreign currencies on a consistent basis.

(j) *Administrative requirements*—(1) *In general.* The administrative requirements of this paragraph consist of the documentation requirements of paragraph (j)(2) of this section and the reporting requirements of paragraph (j)(3) of this section.

(2) *Documentation.* A controlled participant must maintain sufficient documentation to establish that the requirements of paragraphs (b)(4) and (c)(1) of this section have been met, as well as the additional documentation specified in this paragraph (j)(2), and must provide any such documentation to the Internal Revenue Service within 30 days of a request (unless an extension is granted by the district director). Documents necessary to establish the following must also be maintained—

- (i) The total amount of costs incurred pursuant to the arrangement;
- (ii) The costs borne by each controlled participant;
- (iii) A description of the method used to determine each controlled participant's share of the intangible development costs, including the projections used to estimate benefits, and an explanation of why that method was selected;
- (iv) The accounting method used to determine the costs and benefits of the intangible development (including the method used to translate foreign currencies), and, to the extent that the method materially differs from U.S. generally accepted accounting principles, an explanation of such material differences; and
- (v) Prior research, if any, undertaken in the intangible development area, any tangible or intangible property made available for use in the arrangement, by each controlled participant, and any information used to establish the value of pre-existing and covered intangibles.

(3) *Reporting requirements.* A controlled participant must attach to its U.S. income tax return a statement indicating that it is a participant in a qualified cost sharing arrangement, and listing the other controlled participants in the arrangement. A controlled participant that is not required to file a U.S. income tax return must ensure that such a statement is attached to Schedule M of any Form 5471 or to any Form 5472 filed with respect to that participant.

(k) *Effective date.* This section is effective for taxable years beginning on or after January 1, 1996.

(l) *Transition rule.* A cost sharing arrangement will be considered a qualified cost sharing arrangement, within the meaning of this section, if, prior to January 1, 1996, the arrangement was a bona fide cost sharing arrangement under the provisions of § 1.482-7T (as contained in the 26 CFR part 1 edition revised as of April 1, 1995), but only if the arrangement is amended, if necessary, to conform with the provisions of this section by December 31, 1996.

§ 1.482-7T [Removed]

Par. 4. Section 1.482-7T is removed.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 5. The authority for part 301 continues to read in part as follows:

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

Par. 6. Section 301.7701-3 is amended by adding paragraph (e) to read as follows:

§ 301.7701-3 Partnerships.

* * * * *

(e) *Qualified cost sharing arrangements.* A qualified cost sharing arrangement that is described in § 1.482-7 of this chapter and any arrangement that is treated by the Service as a qualified cost sharing arrangement under § 1.482-7 of this chapter is not classified as a partnership for purposes of the Internal Revenue Code. See § 1.482-7 of this chapter for the proper treatment of qualified cost sharing arrangements.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 7. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 8. In § 602.101, paragraph (c) is amended by adding an entry to the table in numerical order to read as follows:

“1.482-7.....1545-1364”.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: November 30, 1995.
Leslie Samuels,
Assistant Secretary of the Treasury.
[FR Doc. 95-30617 Filed 12-19-95; 8:45 am]

BILLING CODE 4830-01-U

26 CFR Part 53

[TD 8639]

RIN 1545-AT03

Excise Tax On Self-Dealing By Private Foundations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that clarify the definition of self-dealing for private foundations. These regulations modify the application of the self-dealing rules to the provision by a private foundation of directors' and officers' liability insurance to disqualified persons. In general, these regulations provide that indemnification by a private foundation or provision of insurance for purposes of covering the liabilities of the person in his/her capacity as a manager of the private foundation is not self-dealing. Additionally, the amounts expended by the private foundation for insurance or indemnification generally are not included in the compensation of the disqualified person for purposes of determining whether the disqualified person's compensation is reasonable.

DATES: These regulations are effective December 20, 1995.

FOR FURTHER INFORMATION CONTACT: Terri Harris or Paul Accettura of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), IRS, at 202-622-6070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 3, 1995 proposed regulations amending § 53.4941(d)-2(f) [EE-56-94, 1995-6 I.R.B. 39] under section 4941 of the Internal Revenue Code of 1986 were published in the Federal Register (60 FR 82). The proposed regulations provided that generally it would not be self-dealing, nor treated as the payment of compensation, if a private foundation were to indemnify or provide insurance to a foundation manager in any civil judicial or civil administrative proceeding arising out of the manager's performance of services on behalf of the foundation. After IRS and Treasury consideration of the public comments received regarding the proposed regulations, the regulations are adopted as revised by this Treasury decision.

Explanation of Provisions

Section 4941(a) imposes a tax on each act of self-dealing between a