

Lender Insurance program approval. The decision will be communicated to the mortgagee in writing, will be deemed a final agency action, and, pursuant to section 256(d) of the National Housing Act (12 U.S.C. 1715z-21(d)), is not subject to judicial review.

(3) Lender Insurance authority is automatically terminated for a mortgagee whose nationwide Direct Endorsement approval under § 203.3(d)(2) is terminated, without imposing any further requirement on the mortgagee to comply with this paragraph.

(4) Any termination instituted under this section is distinct from withdrawal of mortgagee approval by the Mortgagee Review Board under 24 CFR part 25.

(e) *Reinstatement.* A mortgagee whose Lender Insurance authority is terminated under this section may apply for reinstatement if the Lender Insurance authority for the mortgagee has been terminated for at least 6 months. In addition to addressing the criteria for Lender Insurance approval specified in paragraphs (a) and (b) of this section, the application for reinstatement must be accompanied by a corrective action plan addressing the issues resulting in the termination of the mortgagee's Lender Insurance authority, along with evidence that the mortgagee has implemented the corrective action plan. HUD may grant the mortgagee's application for reinstatement if the mortgagee's application is complete and HUD determines that the underlying causes for the termination have been satisfactorily remedied.

■ 3. In § 203.255, revise paragraph (f)(1), remove paragraph (f)(4), and add paragraph (g) to read as follows:

**§ 203.255 Insurance of mortgage.**

\* \* \* \* \*

(f) *Lender Insurance.* (1) *Pre-insurance review.* For applications for insurance involving mortgages originated under the Lender Insurance program under § 203.6, the mortgagee is responsible for performing a pre-insurance review that would otherwise be performed by HUD under § 203.255(c) on the documents that would otherwise be submitted to HUD under § 203.255(b). The mortgagee's staff that performs the pre-insurance review must not be the same staff that originated the mortgage or underwrote the mortgage for insurance.

\* \* \* \* \*

(g) *Indemnification.* (1) *General.* By insuring the mortgage, a Lender Insurance mortgagee agrees to indemnify HUD, in accordance with this paragraph.

(2) *Definition of origination.* For purposes of indemnification under this paragraph, the term "origination" means the process of creating a mortgage, starting with the taking of the initial application, continuing with the processing and underwriting, and ending with the mortgagee endorsing the mortgage note for FHA insurance.

(3) *Serious and material violation.* The mortgagee shall indemnify HUD for an FHA insurance claim paid within 5 years of mortgage insurance endorsement, if the mortgagee knew or should have known of a serious and material violation of FHA origination requirements, such that the mortgage loan should not have been approved and endorsed by the mortgagee and irrespective of whether the violation caused the mortgage default. Such a serious and material violation of FHA requirements in the origination of the mortgage may occur if the mortgagee failed to, among other actions:

- (i) Verify the creditworthiness, income, and/or employment of the mortgagor in accordance with FHA requirements;
- (ii) Verify the assets brought by the mortgagor for payment of the required down payment and/or closing costs in accordance with FHA requirements; or
- (iii) Address property deficiencies identified in the appraisal affecting the health and safety of the occupants or the structural integrity of the property in accordance with FHA requirements, or
- (iv) Ensure that the appraisal of the property serving as security for the mortgage loan satisfies FHA appraisal requirements, in accordance with § 203.5(e).

(4) *Fraud or misrepresentation.* The mortgagee shall indemnify HUD for an insurance claim if the mortgagee knew or should have known that fraud or misrepresentation was involved in connection with the origination of the mortgage, regardless of whether the fraud or misrepresentation caused the mortgage default and regardless of when an insurance claim is filed.

(5) *Demand for indemnification.* The demand for indemnification will be made by either the Secretary or the Mortgagee Review Board. Under indemnification, the Lender Insurance mortgagee agrees to either abstain from filing an insurance claim, or reimburse FHA if a subsequent holder of the mortgage files an insurance claim and FHA suffers a financial loss.

Dated: January 18, 2012.

**Carole J. Galante,**

*Acting Assistant Secretary for Housing,  
Federal Housing Commissioner.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9568]

RIN 1545-BI47

#### **Section 482; Methods To Determine Taxable Income in Connection With a Cost Sharing Arrangement; Correction**

**AGENCY:** Internal Revenue Service (IRS).

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains corrections to final regulations (TD 9568), which were published in the **Federal Register** on Thursday, December 22, 2011 (76 FR 80082), relating to section 482 and methods to determine taxable income in connection with a cost sharing arrangement.

**DATES:** *Effective* January 25, 2012, and applicable beginning December 22, 2011.

**FOR FURTHER INFORMATION CONTACT:** Joseph L. Tobin at (202) 435-5265 (not a toll-free number).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The final regulations that are the subject of these corrections are under section 482 of the Internal Revenue Code.

##### **Need for Correction**

As published, final regulations (TD 9568), contains errors which may prove to be misleading and are in need of clarification.

##### **Correction of Publication**

Accordingly, the publication of the final regulations, (TD 9568), which were the subject of FR Doc. 2011-32458, is corrected as follows:

1. On page 80082, column one, in the preamble, under the caption **DATES**, lines 4 and 5, the language "1.482-8(c), 1.482-9(n), and 1.301-7701-1(f)" is corrected to read as "1.482-8(c), 1.482-9(n), and 301.7701-1(f)."

2. On page 80082, column one, in the preamble, under the caption, Paperwork Reduction Act, line one, the language "The collection of information" is corrected to read "The collections of information".

3. On page 80086, column three, in the preamble, paragraph d. introductory text, the language “Contractual CWI Provisions—§ 1.482–1(d)(3)(ii)(C), Examples 3 through 7” is corrected to read “Contractual CWI Provisions—§ 1.482–7(h)(2)(iii)(C), Examples 3 through 7.”.

Guy R. Traynor,

*Federal Register Liaison, Legal Processing Division, Publication and Regulations Branch, Procedure and Administration.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9568]

RIN 1545–BI47

#### Section 482; Methods To Determine Taxable Income in Connection With a Cost Sharing Arrangement; Correction

AGENCY: Internal Revenue Service (IRS).

ACTION: Correcting amendment.

**SUMMARY:** This document contains corrections to final regulations (TD 9568), which were published in the **Federal Register** on Thursday, December 22, 2011 (76 FR 80082), Relating to section 482 and methods to determine taxable income in connection with a cost sharing arrangement.

**DATES:** Effective January 25, 2012, and applicable beginning December 22, 2011.

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#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulations that are the subject of these corrections are under section 482 of the Internal Revenue Code.

##### Need for Correction

As published, final regulations (TD 9568), contains errors which may prove to be misleading and are in need of clarification.

##### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR Parts 1 and 301 are corrected by making the following correcting amendments:

## PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

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

## PART 1—[CORRECTED]

■ **Par. 2.** Section 1.482–1 is amended by revising the first and second sentences of paragraph (b)(2)(i) to read as follows:

#### § 1.482–1 Allocation of income and deductions among taxpayers.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) *Methods.* Sections 1.482–2 through 1.482–7 and 1.482–9 provide specific methods to be used to evaluate whether transactions between or among members of the controlled group satisfy the arm’s length standard, and if they do not, to determine the arm’s length result. This section provides general principles applicable in determining arm’s length results of such controlled transactions, but do not provide methods, for which reference must be made to those other sections in accordance with paragraphs (b)(2)(ii) and (iii) of this section. \* \* \*

**Par. 3.** Section 1.482–7 is amended by:

■ 1. Revising the fourth sentence of paragraph (c)(3).

■ 2. Revising the fifth sentence of paragraph (g)(2)(v)(C), *Example*, paragraph (i).

■ 3. Revising the first sentence of paragraph (g)(2)(v)(C), *Example*, paragraph (ii).

■ 4. Revising paragraph (k)(2)(ii)(3).

The revisions read as follows:

#### § 1.482–7 Methods to determine taxable income in connection with a cost sharing arrangement.

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \* If the conduct is consistent with different, economically equivalent types of transactions then the controlled participants may designate the PCT as being any of such types of transactions. \* \* \*

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(v) \* \* \*

(C) \* \* \*

*Example.* (i) \* \* \* Specifically, the Commissioner compares P’s anticipated post-tax discounted present value of the financial projections under the CSA (taking into account S’s PCT payment of 5% of its sale of product Y) with P’s anticipated post-tax discounted present value of the financial

projections under a reasonably available licensing alternative that consists of developing intangible X on its own and then licensing X to S or to an uncontrolled party similar to S.

\* \* \* \* \*

(ii) The Commissioner determines that, as between the two scenarios, all of the components of P’s anticipated financial flows are identical, except for the CST and PCT Payments under the CSA, compared to the licensing payments under the licensing alternative. \* \* \*

\* \* \* \* \*

(3) \* \* \*

(viii) \* \* \*

*Example 3.* \* \* \* FS determines that the discount rate that would be applied to determine the present value of income and costs attributable to its participation in the licensing alternative would be 12.5% as compared to the 15% discount rate that would be applicable in determining the present value of the net income attributable to its participation in the CSA (reflecting the increased risk borne by FS in bearing a share of the R & D costs in the cost sharing alternative). \* \* \*

\* \* \* \* \*

(k) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(3) Any further development of intangibles already developed under the CSA or of specified applications of such intangible which has been removed from the IDA (see paragraphs (d)(1)(ii) and (j)(1)(i) of this section for the definitions of reasonably anticipated cost shared intangible and cost shared intangible) and the steps (including any accounting classifications and allocations) taken to implement such removal;

\* \* \* \* \*

Guy R. Traynor,

*Federal Register Liaison, Legal Processing Division, Publication & Regulation Branch (Procedure and Administration).*

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## DEPARTMENT OF THE INTERIOR

### Office of Natural Resources Revenue

#### 30 CFR Part 1206

#### Product Valuation

##### CFR Correction

■ In Title 30 of the Code of Federal Regulations, Part 700 to End, revised as of July 1, 2011, “ONNR” is corrected to read “ONRR”, as set forth in the following table: