Internal Revenue Service, Treasury

agreement shall be binding on the parties except upon a showing of fraud, malfeasance, or misrepresentation of material fact.

[T.D. 8608, 60 FR 40079, Aug. 7, 1995]

§1.481-5 Effective dates.

Sections 1.481–1, 1.481–2, 1.481–3, and 1.481–4 are effective for Consent Agreements signed on or after December 27, 1994. For Consent Agreements signed before December 27, 1994, see §§ 1.481–1, 1.481–2, 1.481–3, 1.481–4, and 1.481–5 (as contained in the 26 CFR part 1 edition revised as of April 1, 1995).

[T.D. 8608, 60 FR 40079, Aug. 7, 1995]

§ 1.482-0 Outline of regulations under section 482.

This section contains major captions for $\S1.482-1$ through 1.482-9.

§1.482-1 Allocation of income and deductions among taxpayers.

- (a) In general.
- (1) Purpose and scope.
- (2) Authority to make allocations.
- (3) Taxpayer's use of section 482.
- (b) Arm's length standard.
- (1) In general.
- (2) Arm's length methods.
- (i) Methods.
- (ii) Selection of category of method applicable to transaction.
- (iii) Coordination of methods applicable to certain intangible development arrangements.
 - (c) Best method rule.
 - (1) In general.
 - (2) Determining the best method.
 - (i) Comparability.
 - (ii) Data and assumptions.
 - (A) Completeness and accuracy of data.
- (B) Reliability of assumptions.
- (C) Sensitivity of results to deficiencies in data and assumptions.
- (iii) Confirmation of results by another method.
- (d) Comparability.
- (1) In general.
- (2) Standard of comparability.
- (3) Factors for determining comparability.
- (i) Functional analysis.
- (ii) Contractual terms.
- (A) In general.
- (B) Identifying contractual terms.
- (1) Written agreement.
- (2) No written agreement.
- (C) Examples.
- (iii) Risk.
- (A) In general.
- (B) Identification of party that bears risk.
- (C) Examples.

- (iv) Economic conditions.
- (v) Property or services.
- (4) Special circumstances.
- (i) Market share strategy.
- (ii) Different geographic markets.
- (A) In general.
- (B) Example.
- (C) Location savings.
- (D) Example.
- (iii) Transactions ordinarily not accepted as comparables.
- (A) In general.
- (B) Examples.
- (e) Arm's length range.
- (1) In general.
- (2) Determination of arm's length range.
- (i) Single method.
- (ii) Selection of comparables.
- (iii) Comparables included in arm's length range.
- (A) In general.
- (B) Adjustment of range to increase reliability.
 - (C) Interquartile range.
- (3) Adjustment if taxpayer's results are outside arm's length range.
- (4) Arm's length range not prerequisite to allocation.
 - (5) Examples.
 - (f) Scope of review.
 - (1) In general.
- (i) Intent to evade or avoid tax not a prerequisite.
- (ii) Realization of income not a pre-requisite.
 - (A) In general.
 - (B) Example.
- (iii) Nonrecognition provisions may not bar allocation.
 - (A) In general.
 - (B) Example.
 - (iv) Consolidated returns.
- (2) Rules relating to determination of true taxable income.
- (i) Aggregation of transactions.
- (A) In general.
- (B) Examples.
- (ii) Allocation based on taxpayer's actual transactions.
- (A) In general.
- (B) Example.
- (iii) Multiple year data.
- (A) In general.
- $\begin{tabular}{ll} (B) & Circumstances & warranting & consideration of multiple year data. \end{tabular}$
- (C) Comparable effect over comparable period.
- (D) Applications of methods using multiple year averages.
 - ear averages.
 - (E) Examples.
- (iv) Product lines and statistical techniques.
- (v) Allocations apply to results, not methods
- (A) In general.
- (B) Example.