

shareholder takes the related income into account.

(10) *Distributions of previously-taxed earnings and profits.* Distributions and deemed distributions described in paragraph (d) of this section (including in the case of a section 902 shareholder that has chosen the alternative method described in paragraph (d)(4) of this section) do not include distributions of amounts described in section 959(c)(1) or (c)(2), which are distributed before amounts described in section 959(c)(3).

(e) *Special rules regarding pre-2011 split taxes*—(1) *Taxes deemed paid pro-rata out of pre-2011 split taxes and other taxes.* If the pre-2011 taxes of a section 902 corporation include both pre-2011 split taxes and other taxes, then foreign taxes deemed paid under section 902 or 960 or otherwise removed from post-1986 foreign income taxes in pre-2011 taxable years will be treated as attributable to pre-2011 split taxes and other taxes on a pro-rata basis.

(2) *Pre-2011 split taxes deemed paid in pre-2011 taxable years.* Pre-2011 split taxes deemed paid in pre-2011 taxable years in connection with a dividend paid to a shareholder described in section 902(b) retain their character as pre-2011 split taxes. The section 902(b) shareholder will be treated as the payor section 902 corporation with respect to those pre-2011 split taxes.

(3) *Carryover of pre-2011 split taxes.* Pre-2011 split taxes that carry over to another foreign corporation, including under section 381, § 1.367(b)–7 or similar rules, retain their character as pre-2011 split taxes. The transferee foreign corporation will be treated as the payor section 902 corporation with respect to those pre-2011 split taxes.

(4) *Determining when pre-2011 split taxes are no longer treated as pre-2011 split taxes.* For each pre-2011 splitter arrangement, as related income is taken into account by the payor section 902 corporation or a section 902 shareholder as provided in paragraph (d) of this section, a ratable portion of the associated pre-2011 split taxes will no longer be treated as pre-2011 split taxes. In the case of a pre-2011 splitter arrangement involving a reverse hybrid or a foreign consolidated group (as described in paragraphs (b)(1) and (b)(2) of this section, respectively), if aggregate related income is reduced to zero (other than as a result of a distribution, deemed distribution, or inclusion described in paragraph (d) of this section) or less than zero, pre-2011 split taxes will retain their character as pre-2011 split taxes until the amount of aggregate related income is positive and the related income is taken into account by the payor section 902 corporation or

a section 902 shareholder as provided in paragraph (d) of this section.

(f) *Rules relating to partnerships and trusts*—(1) *Taxes paid or accrued by partnerships.* In the case of foreign income taxes paid or accrued by a partnership, the taxes will be treated as pre-2011 split taxes to the extent such taxes are allocated to one or more section 902 corporations and would be pre-2011 split taxes if the partner section 902 corporation had paid or accrued the taxes directly on the date such taxes are included by the section 902 corporation under sections 702 and 706(a). Further, any foreign income taxes subject to section 909 will be suspended in the hands of the partner section 902 corporation.

(2) *Section 704(b) allocations.* Partnership allocations that satisfy the requirements of section 704(b) and the regulations thereunder will not constitute pre-2011 splitter arrangements except to the extent the arrangement is otherwise described in paragraph (b) of this section (for example, a payment or accrual on a disregarded debt instrument that gives rise to a shared loss).

(3) *Trusts.* Rules similar to the rules of paragraph (f)(1) of this section will apply in the case of any trust with one or more beneficiaries that is a section 902 corporation.

(g) *Interaction between section 909 and other Code provisions*—(1) *Section 904(c).* Section 909 does not apply to excess foreign income taxes that were paid or accrued in pre-2011 taxable years and carried forward and deemed paid or accrued under section 904(c) in a post-2010 taxable year.

(2) *Section 905(a).* For purposes of determining in post-2010 taxable years the allowable deduction for foreign income taxes paid or accrued under section 164(a), the carryover of excess foreign income taxes under section 904(c), and the extended period for claiming a credit or refund under section 6511(d)(3)(A), foreign income taxes to which section 909 applies are first taken into account and treated as paid or accrued in the year in which the related income is taken into account, and not in the earlier year to which the tax relates (determined without regard to section 909).

(3) *Section 905(c).* If a redetermination of foreign taxes claimed as a direct credit under section 901 occurs in a post-2010 taxable year and the foreign tax redetermination relates to a pre-2011 taxable year, to the extent such foreign tax redetermination increased the amount of foreign income taxes paid or accrued with respect to the pre-2011 taxable year (for example, due

to an additional assessment of foreign tax or a payment of a previously accrued tax not paid within two years), section 909 will not apply to such taxes. If a redetermination of foreign tax paid or accrued by a section 902 corporation occurs in a post-2010 taxable year and increases the amount of foreign income taxes paid or accrued by the section 902 corporation with respect to a pre-2011 taxable year (for example, due to an additional assessment of foreign tax or a payment of a previously accrued tax not paid within two years), such taxes will be treated as pre-2011 taxes. Section 909 will apply to such taxes if they are pre-2011 split taxes and the taxes will be suspended in the post-2010 taxable year in which they would otherwise be taken into account as a prospective adjustment to the section 902 corporation's pools of post-1986 foreign income taxes.

(4) *Other foreign tax credit provisions.* Section 909 does not affect the applicability of other restrictions or limitations on the foreign tax credit under existing law, including, for example, the substantiation requirements of section 905(b).

(h) *Effective/applicability date.* This section applies to foreign income taxes paid or accrued by section 902 corporations in pre-2011 taxable years for purposes of computing foreign income taxes deemed paid with respect to distributions or inclusions out of earnings and profits of section 902 corporations in taxable years of the section 902 corporation beginning after December 31, 2010.

(i) *Expiration date.* The applicability of this section expires on February 9, 2015.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

Approved: February 8, 2012.

**Emily S. McMahon,**

*Acting Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2012–3356 Filed 2–9–12; 4:15 pm]

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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:** This correction is effective on February 14, 2012 and is 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 is 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.

**Correction of Publication**

Accordingly, the final regulations (TD 9568) that was the subject of FR Doc. 2012-895 is corrected to read as follows:

**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 1.482-7 is amended by:

1. Revising the title of the table of paragraph (g)(4)(viii), Example 2 (ii).
  2. Revising the fourth sentence of paragraph (g)(4)(viii), Example 3 (ii).
- The revisions read as follows:

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

\* \* \* \* \*

(g) \* \* \*

(4) \* \* \*

(viii) *Examples.* \* \* \*

*Example 2.* \* \* \*

(ii) \* \* \*

“INCOME METHOD APPLICATION NUMBER.”

\* \* \* \* \*

*Example 3.* \* \* \*

(ii) \* \* \* 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). \* \* \*

\* \* \* \* \*

**Guy R. Traynor,**

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

[FR Doc. 2012-3351 Filed 2-13-12; 8:45 am]

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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:** Correction to notice of correcting amendments.

**SUMMARY:** This document contains corrections to a correcting amendment (TD 9568), which was published in the **Federal Register** on Wednesday, January 25, 2012 (77 FR 3606) relating to section 482 and methods to determine taxable income in connection with a cost sharing arrangement.

**DATES:** This correction is effective on February 14, 2012, and is 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, the correcting amendments to 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 correcting amendments to final regulations, (TD 9568), which were the subject of FR Doc. 2012-895, is corrected as follows:

1. On page 3606, second column, instructional paragraph 3., item 4. the language “4. Revising paragraph (k)(2)(ii)(3) is corrected to read “5. Revising paragraph (k)(2)(ii)(A)(3).

2. On page 3606, second column, under the instructional paragraph 3., the language “4. Revising the fourth sentence of paragraph (g)(4)(viii), *Example 3.*” is added.

**§ 1.482-7 [Corrected].**

3. On page 3606, third column, § 1.482-7(g)(2)(v)(C), *Example (i)*, add three asterisks to the end of the paragraph and remove the five asterisks from below the paragraph.

4. On page 3606, third column, § 1.482-7(g)(2) after the five asterisks following paragraph (ii) the language “(3) \* \* \*”, is corrected to read “(4) \* \* \*”.

5. On page 3606, third column, § 1.482-7 (g)(4)(viii), the language “(viii) \* \* \*” is corrected to read “(viii) *Examples.* \* \* \*”

6. On page 3606, third column, § 1.482-7(k)(2) below the five asterisks following paragraph (viii), *Example 3* add “(A)\* \* \*” below “(ii)\* \* \*” and above “(3)” and underscore “(3)”.

**Guy R. Traynor,**

*Federal Register Liaison, Legal Processing Division, Publication and Regulations Branch, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 2012-3353 Filed 2-13-12; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 943**

[SATS Nos. TX-061-FOR; TX-062-FOR; TX-063-FOR; Docket No. OSM-2011-0007]

**Texas Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving three amendments to the Texas regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas at its own initiative submitted three separate amendments to its program: SATS Nos. TX-061-FOR, TX-062-FOR, and TX-063-FOR. Texas proposed revisions in TX-061-FOR by