§ 1.167(e)–1 Change in method.

(a) [The text of the proposed amendment to § 1.167(e)–1(a) is the same as the text of § 1.167(e)–1T(a) published elsewhere in this issue of the **Federal Register**].

* * * * *

(e) *Effective date.* This section applies on or after December 30, 2003. For the applicability of regulations before December 30, 2003, see § 1.167(e)–1 in effect prior to December 30, 2003 (§ 1.167(e)–1 as contained in 26 CFR part 1 edition revised as of April 1, 2003).

Par. 3. Section 1.446–1 is amended by revising paragraphs (e)(2)(ii)(*a*), (e)(2)(ii)(*b*), (e)(2)(ii)(*d*), (e)(2)(iii), and (e)(4) to read as follows:

§ 1.446–1 General rule for methods of accounting.

* * * * *

(e) * * *

(2) * * *

(ii)(*a*) and (*b*) [The text of the proposed amendment to § 1.446–1(e)(2)(ii)(*a*) and (*b*) is the same as the text of § 1.446–1T(e)(2)(ii)(*a*) and (*b*) published elsewhere in this issue of the **Federal Register**].

* * * * *

(*d*) [The text of this paragraph (e)(2)(ii)(*d*) is the same as the text of § 1.446–1T(e)(2)(ii)(*d*) published elsewhere in this issue of the **Federal Register**].

(iii) [The text of the proposed amendment to § 1.446–1(e)(2)(iii) is the same as the text of § 1.446–1T(e)(2)(iii) published elsewhere in this issue of the **Federal Register**].

* * * * *

(4) *Effective date*—(i) *In general.* Except as provided in paragraphs (e)(3)(iii) and (e)(4)(ii) of this section, paragraph (e) of this section applies on or after December 30, 2003. For the applicability of regulations before December 30, 2003, see § 1.446–1(e) in effect prior to December 30, 2003 (§ 1.446–1(e) as contained in 26 CFR part 1 edition revised as of April 1, 2003).

(ii) *Changes involving depreciable or amortizable assets.* With respect to paragraph (e)(2)(ii)(*d*) of this section, paragraph (e)(2)(iii) *Examples 9* through *17* of this section, the addition of the language ''certain changes in computing depreciation or amortization (see paragraph (e)(2)(ii)(*d*) of this section)'' to the last sentence of paragraph (e)(2)(ii)(*a*) of this section, and the removal of all language regarding useful life and the sentence ''On the other hand, a correction to require depreciation in lieu of a deduction for the cost of a class of depreciable assets which had been consistently treated as an expense in the year of purchase involves the question of the proper timing of an item, and is to be treated as a change in method of accounting'' from paragraph (e)(2)(ii)(*b*) of this section—

(A) For any change in depreciation or amortization that is a change in method of accounting, this section applies to such a change in method of accounting made for taxable years ending on or after December 30, 2003; and

(B) For any change in depreciation or amortization that is not a change in method of accounting, this section applies to such a change made for taxable years ending on or after December 30, 2003.

Par. 4. Section 1.1016–3 is amended by revising paragraphs (h) and (j) to read as follows:

§ 1.1016–3 Exhaustion, wear and tear, obsolescence, amortization, and depletion for periods since February 28, 1913.

* * * * *

(h) [The text of the proposed amendment to § 1.1016–3(h) is the same as the text of § 1.1016–3T(h) published elsewhere in this issue of the **Federal Register**].

* * * * *

(j) *Effective date*—(1) *In general.* Except as provided in paragraph (j)(2) of this section, this section applies on or after December 30, 2003. For the applicability of regulations before December 30, 2003, see § 1.1016–3 in effect prior to December 30, 2003 (§ 1.1016–3 as contained in 26 CFR part 1 edition revised as of April 1, 2003).

(2) *Depreciation or amortization changes.* Paragraph (h) of this section applies to a change in depreciation or amortization for property subject to section 167, 168, 197, 1400I, 1400L(b), or 1400L(c), or former section 168 for taxable years ending on or after December 30, 2003.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 03–31821 Filed 12–30–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–153656–03]

RIN 1545–BC70

Credit for Increasing Research Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document invites comments from the public regarding certain rules and standards relating to internal-use software under section 41(d)(4)(E) of the Internal Revenue Code. All materials submitted will be available for public inspection and copying. This document also addresses the effective date for final rules relating to internal-use software.

DATES: Comments are requested on or before March 2, 2004.

ADDRESSES: Send written comments to: Internal Revenue Service, Attn: CC:PA:LPD:PR [REG–153656–03], room 5203, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, taxpayers may submit comments in writing, by hand delivery to CC:PA:LPD:PR [REG–153656–03], Courier's Desk, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC, or electronically, via the IRS Internet site at: *http://www.irs.gov/regs.*

FOR FURTHER INFORMATION CONTACT: Nicole R. Cimino at (202) 622–3120 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Introduction

On December 31, 2003, the Treasury Department and the IRS issued final regulations (TD 9104) for the credit for increasing research activities under section 41 (research credit). TD 9104 provides rules relating to the definition of *qualified research* under section 41(d) but does not finalize rules relating to internal-use software under section 41(d)(4)(E). This advance notice of proposed rulemaking (ANPRM) invites comments from the public regarding the proposed regulations issued in 2001 relating to internal-use software under section 41(d)(4)(E). Although the Treasury Department and the IRS welcome comments on all aspects of those proposed regulations, the Treasury Department and the IRS specifically request comments concerning the definition of internal-use

software. In addition, the Treasury Department and the IRS request comments on whether final rules relating to internal-use software should have retroactive effect.

Background

Section 41(d)(4)(E) provides that, except to the extent provided by regulations, research with respect to computer software which is developed by (or for the benefit of) the taxpayer primarily for internal use by the taxpayer (internal-use software) is excluded from the definition of qualified research under section 41(d). (Software that is developed for use in an activity which constitutes qualified research and software that is developed for use in a production process with respect to which the general credit eligibility requirements are satisfied are not excluded as internal-use software under the provisions of section 41(d)(4)(E).) The statutory exclusion for internal-use software and the regulatory exceptions to this exclusion have been the subject of a series of proposed and final regulations.

Legislative History

The legislative history to the Tax Reform Act of 1986, Public Law 99–514 (100 Stat. 2085) (1986 Act), states that ''the costs of developing software are not eligible for the credit where the software is used internally, for example, in general and administrative functions (such as payroll, bookkeeping, or personnel management) or in providing noncomputer services (such as accounting, consulting, or banking services) except to the extent permitted by Treasury regulations.'' See H.R. Conf. Rep. No. 841, at II–73 (1986 legislative history). The 1986 legislative history further states that Congress intended that regulations would make the costs of new or improved internal-use software eligible for the credit only if the research satisfies, in addition to the general requirements for credit eligibility, an additional, three-part high threshold of innovation test (*i.e.*, that the software was innovative, that the software development involved significant economic risk, and that the software was not commercially available for use by the taxpayer).

Congress has extended the research credit a number of times since the 1986 Act but has not made any changes to the statutory definition of qualified research or to the statutory exclusion for internal-use software in section 41(d)(4)(E). When Congress extended the research credit in the Tax Relief Extension Act of 1999, Public Law 106–170 (113 Stat. 1860) (1999 Act), however, the legislative history stated the following with respect to internal-use software:

> The conferees further note the rapid pace of technological advance, especially in service-related industries, and urge the Secretary to consider carefully the comments he has and may receive in promulgating regulations in connection with what constitutes ''internal use'' with regard to software expenditures. The conferees also wish to observe that software research, that otherwise satisfies the requirements of section 41, which is undertaken to support the provision of a service, should not be deemed ''internal use'' solely because the business component involves the provision of a service.

H.R. Conf. Rep. No. 106–478, at 132 (1999).

1997 Proposed Regulations

On January 2, 1997, the Treasury Department and the IRS published proposed regulations (REG–209494–90, 1997–1 C.B. 723) in the **Federal Register** (62 FR 81) under section 41 relating to internal-use software (1997 proposed regulations). In relevant part, the 1997 proposed regulations stated:

> Research with respect to computer software that is developed by (or for the benefit of) the taxpayer primarily for the taxpayer's internal use is eligible for the research credit only if the software satisfies the requirements of paragraph (e)(2) of this section. Generally, research with respect to computer software is not eligible for the research credit where software is used internally, for example, in general and administrative functions (such as payroll, bookkeeping, or personnel management) or in providing noncomputer services (such as accounting, consulting, or banking services).

Prop. § 1.41–4(e)(1) (1997).

The 1997 proposed regulations contained an exception to the internal-use software rules for certain software developed by the taxpayer as a part of a new or improved package of computer software and hardware developed together as a single product. Such software would not be subject to the high threshold of innovation requirements for internal-use software under the 1997 proposed regulations. The 1997 proposed regulations, however, did not contain a specific definition of internal-use software. Instead, the 1997 proposed regulations provided that the determination of whether software was internal-use software would depend on the facts and circumstances of each case:

> All relevant facts and circumstances are to be considered in determining if computer software is developed primarily for the taxpayer's internal use. If computer software is developed primarily for the taxpayer's internal use, the requirements of this paragraph (e) apply even though the taxpayer intends to, or subsequently does, sell, lease, or license the computer software.

Prop. § 1.41–4(e)(4) (1997).

2001 Final Regulations (TD 8930)

On January 3, 2001, the Treasury Department and the IRS published in the **Federal Register** (66 FR 280) final regulations (TD 8930) relating, in relevant part, to the definition of internal-use software for purposes of section 41(d)(4)(E). With respect to the general definition of internal-use software, TD 8930 provided:

> Software is developed primarily for the taxpayer's internal use if the software is to be used internally, for example, in general administrative functions of the taxpayer (such as payroll, bookkeeping, or personnel management) or in providing noncomputer services (such as accounting, consulting, or banking services). If computer software is developed primarily for the taxpayer's internal use, the requirements of this paragraph (c)(6) apply even though the taxpayer intends to, or subsequently does, sell, lease, or license the computer software.

§ 1.41–4(c)(6)(iv). TD 8930, therefore, did not provide a specific definition of internal-use software but instead identified two general categories of software as examples of internal-use software: software ''used internally'' and software used ''in providing noncomputer services.'' TD 8930 eliminated the general facts and circumstances standard contained in the 1997 proposed regulations.

The preamble to TD 8930 addressed the requests made by some commentators that the definition of internal-use software exclude software used to deliver a service to customers and software that includes an interface with customers or the public. The preamble stated that after careful analysis of the legislative history, the Treasury Department and the IRS had concluded that such broad exclusions would be inconsistent with the statutory mandate, because the exclusion would extend to some software that Congress clearly intended to treat as internal-use software. The preamble, however, continued by highlighting changes that had been made in TD 8930 to take into account the commentators' concerns as well as the legislative history to the 1999 Act.

First, TD 8930 provided that the high threshold of innovation test applicable to internal-use software does not apply to software used to provide computer services (defined in TD 8930 generally as a service offered by a taxpayer to customers who conduct business with the taxpayer primarily for the use of the taxpayer's computer or software technology). In contrast, software used

to provide a noncomputer service (defined in TD 8930 generally as a service other than a computer service, even if such other service is enabled, supported, or facilitated by computer or software technology) would be subject to the high threshold of innovation test under TD 8930.

Second, TD 8930 contained a new exception to the high threshold of innovation test for internal-use software for software used to provide a noncomputer service if the software, among other things, contained features or improvements not yet offered by a taxpayer's competitors. In describing this exception, the preamble to TD 8930 stated:

> This exercise of regulatory authority [to create the exception for certain software used to provide non-computer services] is based on a determination that the development of software containing features or improvements that are not available from a taxpayer's competitors and that provide a demonstrable competitive advantage is more likely to increase the innovative qualities and efficiency of the U.S. economy (by generating knowledge that can be used by other service providers) than is the development of software used to provide noncomputer services containing features or improvements that are already offered by others. IRS and Treasury believe that drawing such a line is an appropriate way to administer the credit with a view to identifying and facilitating the credit availability for software with the greatest potential for benefiting the U.S. economy, an important rationale for the research credit.

In response to taxpayer concerns, on January 31, 2001, the Treasury Department and the IRS published Notice 2001–19 (2001–10 I.R.B. 784), announcing that the Treasury Department and the IRS would review TD 8930 and reconsider comments previously submitted in connection with the finalization of TD 8930.

2001 Proposed Regulations

On December 26, 2001, the Treasury Department and the IRS published in the **Federal Register** (66 FR 66362) a notice of proposed rulemaking (REG–112991–01) reflecting their review of TD 8930 (2001 proposed regulations). The 2001 proposed regulations revised the definition of internal-use software as compared to the definitions contained in the 1997 proposed regulations and TD 8930. The definition in the 2001 proposed regulations was based on a presumption that turns on whether the software is developed to be commercially sold, leased, licensed, or otherwise marketed for separately stated consideration:

> *Unless computer software is developed to be commercially sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties,* computer software is presumed developed by (or for the benefit of) the taxpayer primarily for the taxpayer's internal use. For example, the computer software may serve general and administrative functions of the taxpayer, or may be used in providing a noncomputer service. General and administrative functions include, but are not limited to, functions such as payroll, bookkeeping, financial management, financial reporting, personnel management, sales and marketing, fixed asset accounting, inventory management and cost accounting. Computer software that is developed to be commercially sold, leased, licensed or otherwise marketed, for separately stated consideration to unrelated third parties is not developed primarily for the taxpayer's internal use. The requirements of this paragraph (c)(6) apply to computer software that is developed primarily for the taxpayer's internal use even though the taxpayer subsequently sells, leases, licenses, or otherwise markets the computer software for separately stated consideration to unrelated third parties.

Prop. § 1.41–4(c)(6)(iv) (2001) (emphasis added).

As explained in the preamble to the 2001 proposed regulations, this ''separately stated consideration'' standard reflected the Treasury Department and the IRS' determination that software that is sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties is software that is intended to be used primarily by the customers of the taxpayer, whereas software that does not satisfy this requirement is software that is intended to be used primarily by the taxpayer for its internal use or in connection with a noncomputer service provided by the taxpayer. The 2001 proposed regulations modified the hardware-software exception and continued to provide that software used to provide computer services was not required to satisfy the additional qualification requirements imposed on internal-use software. The new proposed regulations, however, eliminated the special rule in TD 8930 for certain software used to provide noncomputer services. The preamble to the 2001 proposed regulations explained that ''[d]ue to other revisions contained in these proposed regulations, Treasury and the IRS believe that the computer software targeted by this rule generally would be credit eligible without this rule.''

The preamble to the 2001 proposed regulations also addressed the continued concerns expressed by some commentators that the definition of internal-use software should not include software used to deliver a service to customers and software that includes an interface with customers or the public. In addition to repeating the Treasury Department and IRS' concern that such exclusions may conflict with Congress' intent regarding software used in the provision of noncomputer services, the preamble stated that an exclusion for software that includes an interface with customers or the public would entail substantial administrative difficulties and ''may inappropriately permit certain categories of costs (*e.g.*, certain web site development costs) to constitute qualified research expenses without having to satisfy the high threshold of innovation test.''

Discussion

Prior regulatory guidance generally reflects three approaches to the definition of internal-use software. First, the 1997 proposed regulations closely mirrored the language contained in the legislative history but did not provide a specific definition of internal-use. Instead, the 1997 proposed regulations used the ''general and administrative functions'' and ''noncomputer services'' language from the legislative history as examples of internal-use software and provided that the determination of whether particular software was internal-use software required an evaluation of ''all relevant facts and circumstances.''

TD 8930 then attempted to provide greater specificity regarding the definition of internal-use software. Although TD 8930 eliminated the facts and circumstances test in the 1997 proposed regulations, TD 8930 continued to provide a general definition of internal-use software that incorporated the legislative history's examples of general and administrative functions and non-computer services. Additionally, TD 8930 provided that software used by the taxpayer to provide ''computer services'' was not subject to the high threshold of innovation test applicable to internal-use software, and provided definitions of *computer services* and *noncomputer services.* The exception for computer services software, however, required a determination of the primary reason why a taxpayer's customers conduct business with the taxpayer. TD 8930 also applied this exception to certain software used to provide ''noncomputer services'' provided that the software satisfied additional requirements intended to identify software containing new features or improvements that provide a competitive advantage to the taxpayer.

Finally, the 2001 proposed regulations prescribed a bright-line, separately-stated consideration rule for determining which software is treated as

internal-use software for purposes of the research credit. (The 2001 proposed regulations retained the exception for software used to provide computer services, but removed the special rule for noncomputer services. Additionally, the 2001 proposed regulations expanded upon the list of general and administrative functions contained in the legislative history and expanded the exception for integrated software-hardware products.) The purpose of this rule was to provide a clear definition of internal-use software that could be readily applied by taxpayers and more readily administered by the IRS.

Numerous comments were received in response to the 1997 proposed regulations, TD 8930 and Notice 2001–19, and the 2001 proposed regulations regarding the provisions relating to internal-use software. Although commentators addressed virtually all aspects of the internal-use software provisions in the various iterations of regulations, most of the comments focused on the definition of internal-use software. As previously stated, many commentators believed that the definition of internal-use software should exclude any software used to deliver a service to customers and any software that includes an interface with customers or the public. Some commentators suggested, as an alternative, that the statutory production process exception be extended to software used in connection with the provision of services.

With respect to the definition of internal-use software in the 2001 proposed regulations, commentators stated that the separately-stated consideration test was a poor indication of when computer software was developed ''primarily for internal use by the taxpayer'' and directly conflicted with the legislative history to the 1999 Act. In support of a narrower definition of internal-use software, these commentators pointed to technological advancements and changes to the role of computer software in business activities since the exclusion for internal-use software was enacted in 1986, including the increased development of computer software by taxpayers, the increased use of computer software in all aspects of business activity, and the role of computer software (often integrated across a business) in providing goods and services in addition to the internal operations of a business. Commentators further argued that the definition should be based on the underlying functionality of the software (*i.e.*, whether the software, in light of the facts and circumstances, is used to deliver services or goods to a taxpayer's customers). Commentators urged that a functionality rule is preferable to a bright-line rule (such as the separately-stated consideration rule in TD 8930) even though a bright-line rule provided a clearer rule for identifying internal-use software for purposes of the research credit.

The Treasury Department and the IRS are continuing to consider the concerns raised by commentators in response to the definition of internal-use software contained in the 2001 proposed regulations, including the concern that the separately-stated consideration test is over-inclusive. Nevertheless, the Treasury Department and the IRS are concerned that the alternatives, including expanded or modified exceptions, proposed by commentators generally would make the definition of internal-use software more complex without providing additional clarity. Several commentators suggested similar definitions that would exclude software that, for example, is ''integral and essential'' to the provision of services with integral defined as software that directly ''enables, supports, or facilitates'' a service. Some commentators suggested a definition that would exclude software that is ''primarily used'' by customers, suppliers, or other third parties. Other commentators suggested a definition that would limit internal-use software to software that is developed primarily for use in general and administrative functions that enable, facilitate, or support the taxpayer's conduct of the taxpayer's trade or business, but would exclude certain customer interface software. These suggestions would introduce many terms (including *enable, support, facilitate, primarily*) that, due to their subjective nature, the Treasury Department and the IRS believe would be prone to controversy and could not be readily applied by taxpayers or administered by the IRS. Another commentator suggested limiting the definition of internal-use software to software used to perform a specifically enumerated list of general and administrative functions. Some commentators, however, have noted that the often highly integrated nature of software development today makes it difficult, if not impossible, to divide software development projects into separate components, and thus a list approach may not be administrable. Finally, as part of their review of these comments, the Treasury Department and the IRS also reviewed the possibility of using definitions of internal-use software contained in prior guidance.

In light of the statute, the legislative history, the history of the regulations regarding internal-use software, and the comments received, the Treasury Department and the IRS have decided not to finalize in TD 9104 the provisions in the 2001 proposed regulations relating to internal-use software. Instead, the Treasury Department and the IRS are issuing this ANPRM to solicit further comments regarding the definition of internal-use software as well as other provisions affecting the qualification of internal-use software for the research credit. The Treasury Department and the IRS are mindful that Congress specifically intended that computer software ''developed by (or for the benefit of) the taxpayer primarily for internal use by the taxpayer'' be subject to additional requirements before the software could qualify for the research credit. At the same time, the Treasury Department and the IRS recognize that there have been changes in computer software, and its role in business activity, since the mid-1980s. In light of these changes, the Treasury Department and the IRS are concerned about the difficulty of effecting Congressional intent behind the exclusion for internal-use software with respect to computer software being developed today. Despite Congress' broad grant of regulatory authority in section 41(d)(4)(E), the Treasury Department and the IRS believe that this authority may not be broad enough to resolve those difficulties.

Accordingly, the Treasury Department and the IRS request comments regarding a definition of internal-use software that appropriately reflects the statute and legislative history, can be readily applied by taxpayers and readily administered by the IRS, and is flexible enough to provide continuing application into the future. In submitting comments, commentators are invited to address any of the definitions included in prior guidance as well as other definitions that have been proposed to the Treasury Department and the IRS by commentators.

In addressing these alternatives, commentators also are invited to discuss how software development efforts that encompass both internal-use software and non-internal use software should be addressed under any particular definition. The Treasury Department and the IRS are concerned that the tendency toward the integration of software across many functions of a taxpayer's business activities may make it difficult for both taxpayers and the IRS to separate internal-use software from non-internal use software (or software not subject to additional

qualification requirements) under any particular definition of internal-use software. In addition, the Treasury Department and the IRS are concerned that a definition of internal-use software that relies upon the ''primary'' or ''principal'' use of that software would be difficult to apply and administer. The Treasury Department and the IRS' continuing goal is that any final rule must provide clear, objective guidance on what software is treated as internal-use software for purposes of the research credit.

Effective Dates

On December 31, 2003, the Treasury Department and the IRS issued final regulations (TD 9104) relating to the definition of qualified research under section 41(d). The final regulations apply to taxable years ending on or after December 31, 2003. The final regulations do not contain final rules for research with respect to computer software ''which is developed by (or for the benefit of) the taxpayer primarily for internal use by the taxpayer'' for purposes of section 41(d)(4)(E) (*i.e.*, internal-use software).

The Treasury Department and the IRS have announced in prior guidance, including Notice 87–12 (1987–1 C.B. 432) and more recently in the 2001 proposed regulations, that final regulations relating to internal-use software generally will be effective for taxable years beginning after December 31, 1985. In light of the length of time that has passed since 1986, as well as the developments with respect to computer software discussed in this ANPRM, the Treasury Department and the IRS request comments on whether final regulations relating to internal-use software should have any retroactive effect.

With respect to internal-use software for taxable years beginning after December 31, 1985, and until further guidance is published in the **Federal Register**, taxpayers may continue to rely upon all of the provisions relating to internal-use software in the 2001 proposed regulations (66 FR 66362). Alternatively, taxpayers may continue to rely upon all of the provisions relating to internal-use software in TD 8930 (66 FR 280). For example, taxpayers relying upon the internal-use software rules of TD 8930 must also apply the ''discovery test'' as set forth in TD 8930.

Request for Public Comment

The Treasury Department and the IRS invite interested persons to submit comments (in the manner described in the **ADDRESSES** caption) on issues arising under the provisions for internal-use software. The Treasury Department and the IRS invite comments that address any of the definitions included in prior guidance as well as other definitions that have been proposed to the Treasury Department and the IRS by commentators. Specifically, the Treasury Department and the IRS invite comments that provide a definition of internal-use software that—

1. Appropriately reflects the statute and legislative history;

2. Can be readily applied by taxpayers and readily administered by the IRS; and

3. Is flexible enough to provide continuing application in the future.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 03–31819 Filed 12–31–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–146893–02, REG–115037–00]

RIN 1545–BB31, 1545–AY38

Treatment of Services Under Section 482; Allocation of Income and Deductions From Intangibles; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a correction of a notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a correction of a notice of proposed rulemaking and notice of public hearing that was published in the **Federal Register** on Wednesday, December 17, 2003 (68 FR 70214). The proposed regulations provide guidance regarding the treatment of controlled services transactions under section 482 and the allocation of income from intangibles, in particular when one controlled taxpayer performs activities that increase (or are expected to increase) the value of an intangible owned by another controlled taxpayer.

FOR FURTHER INFORMATION CONTACT: Helen Hong-George, (202) 435–5265 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking and notice of public hearing that is the subject of this correction is under section 482 of the Internal Revenue Code.

Need for Correction

As published, the correction to the notice of proposed rulemaking and notice of public hearing contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the correction to a notice of proposed regulations and notice of public hearing (REG–146893–02, REG–115037–00), that was the subject of FR Doc. 03–31034, is corrected as follows:

On page 70215, column 1, item 3, third line from the bottom of the paragraph, the language, ''expressed as ration'' is corrected to read ''expressed as ratio''.

Cynthia E. Grigsby,

Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedures and Administration).

[FR Doc. 03–31824 Filed 12–31–03; 8:45 am]

BILLING CODE 4830–01–P