



# Instructions for Schedule P (Form 1120-FSC)

## Transfer Price or Commission

Section references are to the Internal Revenue Code unless otherwise noted.

### Changes To Note

- FSCs may now use the list of products and codes based on the North American Industry Classification System (NAICS) to make its entries in **Item A**, Product or product line, and **Item C**, Principal business activity code, of Schedule P. See the instructions for Item A below and Item C on page 2.
- For a FSC reporting on the transaction-by-transaction basis, a separate checkbox is now provided for aggregating transactions on a tabular schedule instead of Schedule P. For details, see the instructions for Item B below.

### General Instructions

#### Purpose of Schedule

Use Schedule P to figure the transfer price to charge the FSC or the commission to pay to the FSC under the administrative pricing rules discussed below. The transfer price or commission is used to allocate foreign trading gross receipts from the sale of export property or certain services between the FSC and its related supplier.

**Related supplier.** Under Regulations section 1.482-1(a), a related supplier is an entity that is owned or controlled directly or indirectly by the same interests as the FSC.

#### Filing the Schedule

File the schedule for a FSC that has foreign trading gross receipts during the tax year from either of the following sources:

- The resale of export property or certain services or
- The disposition of export property or services in which the FSC served as commission agent for a related supplier.

#### When Not To File

**Do not** complete Schedule P (or an alternate format) in the following three situations.

1. The section 482 method of transfer pricing is used. If the 23% and 1.83% methods (see the instructions for Sections B and C on page 2) do not apply to a sale or if the related supplier does not use the

methods, the transfer price for a sale by the related supplier to the FSC is figured on the basis of the sales price actually charged but is subject to section 482 and its regulations and to Temporary Regulations section 1.925(a)-1T(a)(3)(ii).

2. The arm's-length pricing method is used. If the transaction is with an unrelated supplier, the FSC bases its profit on the arm's-length price.

3. Transactions are incomplete at the end of the year. If export property bought by the FSC from the related supplier during the tax year is unsold by the end of the FSC's tax year or the related supplier's tax year in which the property was transferred, the 23% and 1.83% methods cannot be used. Instead, the transfer price of the property bought by the FSC is the supplier's cost of goods sold for the property. See Temporary Regulations section 1.925(a)-1T(c)(5)(i)(C) for rules regarding the transfer price of property resold during the subsequent tax year.

### Specific Instructions

#### Item A—Product or Product Line

Enter the product or product line that meets one of the two standards below.

1. The principal product based on the North American Industry Classification System (NAICS) (see the last page of the Instructions for Form 1120-FSC) or

2. A recognized industry or trade use.

**Note:** If the FSC used the *Standard Industrial Classification (SIC) codes for Schedule P in prior tax years, it may continue using the SIC codes in 2000.*

#### Item B—Basis of Reporting

The FSC must indicate the basis on which the amounts on Schedule P were determined using either the transaction-by-transaction basis or an election to group transactions.

Except for certain small FSCs electing to group transactions (discussed below), FSCs should not file a separate Schedule P for each transaction or each group of transactions.

**1. Transaction-by-transaction.** If the FSC makes pricing determinations based on each transaction rather than an election to group transactions, check box 1a, box 1b, or box 1c depending on the FSC's preferred reporting format.

**a. Aggregate on Schedule P.** If the FSC chooses to aggregate its transactions on one or more Schedules P, check box 1a.

• Aggregate on **one** Schedule P those transactions for which the same administrative pricing method is applied, provided all the transactions are included in the same product or product line indicated in item A.

• Aggregate on **separate** Schedules P those transactions for which the same pricing method is applied in each separate product line.

If a different pricing method is applied to some of the transactions in one or more of the separate product lines, additional Schedules P must be filed.

**Example.** If the 23% of combined taxable income method applies to transactions in three separate product lines (as indicated in item A), the FSC would file three aggregate Schedules P. However, if the FSC uses the 1.83% of foreign trading gross receipts method for some of the transactions in one of the product lines, the FSC would file four aggregate Schedules P.

**b. Aggregate on tabular schedule.** The FSC may choose to aggregate its transactions on a tabular schedule rather than on Schedule P. To do so, file one Schedule P, entering only the taxpayer's name and employer identification number (EIN) at the top of Schedule P. Also, check box 1b. Attach a tabular schedule to the partially completed Schedule P, reporting all information as if a separate Schedule P were filed for each aggregate of transactions described in 1a above. Also see **Format of tabular schedules** on page 2.

**Note.** To be eligible for either of the aggregate reporting formats described above in 1a or 1b, the FSC and its related supplier must maintain a supporting schedule that contains all information that would be reported if a separate Schedule P were filed for each transaction. The supporting schedule should not be filed with the Schedule P.

### c. Tabular schedule of transactions.

Instead of aggregate reporting, the FSC may choose to report transactions on a tabular schedule. File one Schedule P, entering only the taxpayer's name and EIN at the top of Schedule P. Also, check box 1c. Attach a tabular schedule to the partially completed Schedule P, reporting all information as if a separate Schedule P were filed for each transaction. Also see **Format of tabular schedules** below.

**2. Group of transactions.** The FSC's related supplier may elect to group transactions by product or product line in making pricing determinations. The grouping of transactions applies to all transactions completed during the tax year for that product or product line. Do not group sale and lease transactions.

To make the election, complete one Schedule P, entering only the taxpayer's name and EIN at the top of Schedule P. Also check box 2 of item B. Attach Schedule P to a timely filed Form 1120-FSC (including extensions). Once the election is made, it cannot be changed. (For details, see Temporary Regulations section 1.925(a)-1T(c)(8)).

If a grouping basis is elected, aggregate reporting is not permitted. Attach a tabular schedule to the partially completed Schedule P, reporting all information as if a separate Schedule P were filed for each group of transactions. Also see **Format of tabular schedules** below.

**Small FSC.** If the FSC elected to be a small FSC under section 922(b) and has foreign trading gross receipts of \$5 million or less for the tax year, the small FSC may file a separate Schedule P for each group of transactions instead of filing a tabular schedule.

**Format of tabular schedules.** If a tabular schedule is attached to Schedule P, the schedule must:

- Be in spreadsheet or similar format;
- List the taxpayer's name and EIN on each numbered page;
- Be formatted in columns that correspond to items A, C, and each line item in Parts I, II, and III of Schedule P; and
- Show totals in each column.

### Item C—Principal Business Activity Codes

If applicable, use the list of Principal Business Activity codes on the last page of the Instructions for Form 1120-FSC to group activities. Enter the six-digit number that relates to the corresponding product or product line reported in item A.

## Part I

### Section A—Combined Taxable Income

Under the administrative pricing rules, the methods discussed below may be used in the same tax year of the FSC for separate transactions (or separate groups of transactions).

#### Full Costing

**Foreign trading gross receipts** are the gross receipts of a FSC (other than a small FSC) that has met the foreign management and foreign economic process rules. The receipts are included on lines 1 and 4 and must be from the sale, lease, or rental of export property for use outside the United States or for engineering or architectural services for a construction project located outside the United States. For details, see the Instructions for Form 1120-FSC beginning on page 2 and section 924.

Under the full costing rules in which the FSC is the principal in the sale of export property, the combined taxable income of the FSC and its related supplier is the excess of the FSC's foreign trading gross receipts from the sale over the total costs of the FSC and related supplier. These costs include the supplier's cost of goods sold, and the supplier's and the FSC's noninventoriable costs that relate to the foreign trading gross receipts. See Regulations section 1.471-11(c)(2)(ii). Also see Temporary Regulations section 1.925(a)-1T(c)(6)(iii) for special rules regarding gross receipts and total costs.

**Line 2b.** Include an apportionment of deductions that are not definitely allocable, such as interest expense and stewardship expenses. See Temporary Regulations sections 1.861-11T(f) and 1.861-14T(f) for details on the apportionment.

#### Marginal Costing

Under the marginal costing rules, the combined taxable income of the FSC and its related supplier is figured by subtracting from foreign trading gross receipts the direct material and direct labor costs of producing a particular item, product, or product line. See Regulations section 1.471-11(b)(2)(ii). The combined taxable income also may be limited to the overall profit percentage (line 10) multiplied by the foreign trading gross receipts of the FSC (line 4).

See Temporary Regulations section 1.925(b)-1T for more information on the marginal costing rules. Also see section 1.925(a)-1T for information on the transfer pricing rules.

### Limit on FSC Income (No-loss Rules)

If there is a loss on line 3 or line 12, the FSC may not earn a profit under either the 23% method or the 1.83% method. Under the 1.83% method, the FSC's profit on line 17 may not exceed the full costing combined taxable income reported on line 3. The related supplier may, however, set a transfer price or rental payment or pay a commission in an amount that will enable the FSC to recover its costs, if any, even if the result is a loss for the related supplier.

If the FSC recognizes income while the related supplier recognizes a loss on a sale under the section 482 method, neither the 23% method nor the 1.83% method may be used by the FSC and the related supplier (or by a FSC in the same controlled group and the related supplier) for any other sale, or group of sales, during the tax year that falls within the same NAICS codes as the subject sale.

### Section B—23% of Combined Taxable Income

Under this method, the related supplier figures an allowable transfer price to charge the FSC (or an allowable commission to pay to the FSC) so that the FSC will profit on the sale.

The profit is limited to 23% of the FSC's and the supplier's combined taxable income attributable to the foreign trading gross receipts from the sale. Also see item 3 (regarding incomplete transactions) under **When Not To File** on page 1.

### Section C—1.83% of Foreign Trading Gross Receipts

Under this method, the related supplier figures an allowable transfer price to charge the FSC (or an allowable commission to pay to the FSC) so that the FSC will profit on the sale.

The profit is limited to 1.83% of the FSC's foreign trading gross receipts. It is further limited to twice the profit determined under either (a) the 23% of combined taxable income method or (b) the marginal costing rules (described above). Also see item 3 (regarding incomplete transactions) under **When Not To File**.

## Part II

**Line 20.** If the transfer price from the related supplier to the FSC is entered on more than one line on Form 1120-FSC, attach an explanation indicating the portion of line 20 that applies to each line.

## Part III

**Line 23.** If the FSC commission from the related supplier is entered on more than one line on Form 1120-FSC, attach an explanation indicating the portion of line 23 that applies to each line.