

controlled group of corporations. In general, those amendments are effective for taxable years ending on or after December 31, 1970.

(2) *Limited nonretroactivity.* (i) Under the authority of section 7805(b), the Internal Revenue Service will treat an old group as a brother-sister controlled group corporations for purposes of applying sections 401, 404(a), 408(k), 409A, 410, 411, 412, 414, 415, and 4971 of the Code and sections 202, 203, 204, and 302 of the Employment Retirement Income Security Act of 1974 (ERISA) in a plan year or taxable year beginning before March 2, 1988, to the extent necessary to prevent an adverse effect on any old member (or any other corporation), or on any plan or other entity described in such sections (including plans, etc., of corporations not part of such old group), that would result solely from the retroactive effect of the amendment to this section by TD 8179. An adverse effect includes the disqualification of a plan or the disallowance of a deduction or credit for a contribution to a plan. The Internal Revenue Service, however, will not treat an old member as a member of an old group to the extent that such treatment will have an adverse effect on that old member.

(ii) Section 7805(b) will not be applied pursuant to paragraph (d)(2)(i) of this section to treat an old member of an old group as a member of a brother-sister controlled group to prevent an adverse effect for a taxable year if, for that taxable year, that old member treats or has treated itself as not being a member of that old group for purposes of sections 401, 404(a), 408(k), 409A, 410, 411, 412, 414, 415, and 4971 of the Code and sections 202, 203, 204, and 302 and Title IV of ERISA for such taxable year (such as by filing, with respect to such taxable year, a return, amended return, or claim for credit or refund in which the amount of any deduction, credit, limitation, or tax due is determined by treating itself as not being a member of the old group for purposes of those sections). However, the fact that one or more (but not all) of the old members do not qualify for section 7805(b) treatment because of the preceding sentence will not preclude that old member (or members) from being treated as a member of the old group under paragraph (d)(2)(i) of this section in order to prevent the disallowance of a deduction or credit of another old member (or other corporation) or to prevent the disqualification of, or other adverse effect on, another old member's plan (or other entity) described in the sections of

the Code and ERISA enumerated in such paragraph.

(3) *Election of general nonretroactivity.* In the case of a taxable year ending on or after December 31, 1970, and before March 2, 1988, an old group will be treated as a brother-sister controlled group of corporations for all purposes of the Code for such taxable year if—

(i) Each old member files a statement consenting to such treatment for such taxable year with the District Director having audit jurisdiction over its return within six months after March 2, 1988; and

(ii) No old member—

(A) Files or has filed, with respect to such taxable year, a return, amended return, or claim for credit or refund in which the amount of any deduction, credit, limitation, or tax due is determined by treating any old member as not a member of the old group; or

(B) Treats the employees of all members of the old group as not being employed by a single employer for purposes of sections 401, 404(a), 408(k), 409A, 410, 411, 412, 414, 415, and 4971 of the Code and sections 202, 203, 204, and 302 of ERISA for such taxable year.

(4) *Definitions.* For purposes of this paragraph (d)—

(i) An *old group* is a brother-sister controlled group of corporations, determined by applying paragraph (a)(3)(ii) of this section as in effect before the amendments made by Treasury decision 8179, that is not a brother-sister controlled group of corporations, determined by applying paragraph (a)(3)(ii) of this section as amended by such Treasury decision; and

(ii) An *old member* is any corporation that is a member of an old group.

(5) *Election to choose between membership in more than one controlled group.* If—

(i) An old member has filed an election under paragraph (c)(2) of this section to be treated as a component member of an old group for a December 31 before March 2, 1988; and

(ii) That corporation would (without regard to such paragraph) be a component member of more than one brother-sister controlled group (not including an old group) on the December 31, that corporation may make an election under that paragraph by filing an amended return on or before September 2, 1988. This paragraph (d)(5) does not apply to a corporation that is treated as a member of an old group under paragraph (d)(3) of this section.

(6) *Refunds.* See section 6511(a) for period of limitation on filing claims for credit or refund.

(e) *Effective date.*—(1) *Applicability date.* Paragraphs (a), (b), (c)(1), (c)(2)(iv) and (d) of this section apply to taxable years beginning on or after December 22, 2006. However, taxpayers may apply these paragraphs to any Federal income tax return filed on or after December 22, 2006. Paragraphs (c)(2)(i) through (iii) of this section apply to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006.

(2) *Expiration date.* The applicability of paragraphs (a), (b), (c)(1), (c)(2)(iv) and (d) of this section will expire on December 21 2009. The applicability of paragraphs (c)(2)(i) through (iii) of this section will expire on May 26, 2009.

#### § 1.1563–3 [Amended]

■ **Par. 34.** In § 1.1563–3, at the end of paragraph (d)(3) *Example 3*, add the phrase “for purposes of paragraph (a)(3)(ii) of § 1.1563–1T”.

#### § 1.1564–1 [Removed]

■ **Par. 35.** Section 1.1564–1 is removed.

### PART 5—TEMPORARY INCOME TAX REGULATIONS UNDER THE REVENUE ACT OF 1978

■ **Par. 36.** The authority citation for part 5 continues to read as follows:

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

#### § 5.1561–1 [Removed]

■ **Par. 37.** Section 5.1561–1 is removed.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: December 12, 2006.

**Eric Solomon,**

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

[FR Doc. 06–9758 Filed 12–21–06; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 1 and 31

[TD 9278]

RIN 1545–BB31, 1545–AY38, 1545–BC52

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

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

**ACTION:** Correction to final and temporary regulations.

**SUMMARY:** This document contains corrections to final and temporary regulations (TD 9278) that was published in the **Federal Register** on Friday, August 4, 2006 (71 FR 44466) regarding the treatment of controlled services transactions under section 482 and the allocation of income from intangibles, in particular with respect to contributions by a controlled party to the value of an intangible owned by another controlled party. This document also contains corrections to final and temporary regulations that modify the regulations under section 861 concerning stewardship expenses to be consistent with the changes made to the regulations under section 482.

**DATES:** This correction is effective January 1, 2007.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Vidano, (202) 435-5265, or Carol B. Tan, (202) 435-5159, for matters relating to section 482, and David F. Bergkuist, (202) 622-3850, for matters relating to stewardship expenses (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final and temporary regulations (TD 9278) that are the subject of these corrections is under sections 482 and 861 of the Internal Revenue Code.

**Need for Correction**

As published, final and temporary regulations (TD 9278) contain errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, final and temporary regulations (TD 9278) that were the subject of FR Doc. 06-6497 are corrected as follows:

1. On page 44466, column 1, in the heading, the subject "Treatment of Services Under Section 482; Allocation of Income and Deductions From Intangibles; Stewardship Expense" is corrected to read "Treatment of Services Under Section 482; Allocation of Income and Deductions From Intangibles; and Apportionment of Stewardship Expense".

2. On page 44470, column 2, in the preamble under the paragraph heading "5. Comparable Profits Method for Services—Temp. Treas. Reg. § 1.482-9T(f)", fifth line from the top of the column, the language "assets play a greater role in general" is corrected to read "assets play a greater role in generating".

3. On page 44475, column 3, in the preamble under the paragraph heading "Services Subject to a Qualified Cost Sharing Arrangement—Temp. Treas. Reg. § 1.482-9T(m)(3)," fourth line from the top of the column, the language "two provisions, the rule § 1.482-" is corrected to read "two provisions, the rule in § 1.482-".

**Cynthia Grigsby,**

*Senior Federal Register Liaison Officer, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. E6-21907 Filed 12-21-06; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**32 CFR Part 143**

[DOD-2006-OS-0057]

**RIN 0790-AH99**

**DoD Policy on Organizations That Seek To Represent or Organize Members of the Armed Forces in Negotiation or Collective Bargaining**

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** This rule contains uniform Department of Defense policies for organizations that seek to represent or organize members of the Armed Forces in negotiation or collective bargaining. This updated rule contains editorial changes only as required for internal Department of Defense mandated reconsideration every 5 years.

**DATES:** *Effective Date:* January 22, 2007.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Colonel Mark Gingras, Office of the Deputy Under Secretary of Defense for Program Integration, 4000 Defense Pentagon, Washington, DC 20301-4000.

**SUPPLEMENTARY INFORMATION:** The proposed rule was published on October 12, 2006, at 71 FR 60092. No comments were received. The rule is therefore adopted as published below.

**Executive Order 12866, "Regulatory Planning and Review"**

It has been determined that 32 CFR part 143 is not a significant regulatory action. The rule does not:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

**Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4)**

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

**Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)**

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. By its terms, this rule applies to state and local governments. It has no impact on "small entities".

**Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)**

It has been certified that this rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. The reporting and recordkeeping requirements have been submitted to OMB for review.

**Executive Order 13132, "Federalism"**

It has been certified that this rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

- (1) The States;
- (2) The relationship between the National Government and the States; or
- (3) The distribution of power and responsibilities among the various levels of Government.

**List of Subjects in 32 CFR Part 143**

Government employees, Labor management relations, Military personnel.

■ Accordingly 32 CFR part 143 is revised to read as follows:

**PART 143—DOD POLICY ON ORGANIZATIONS THAT SEEK TO REPRESENT OR ORGANIZE MEMBERS OF THE ARMED FORCES IN NEGOTIATION OR COLLECTIVE BARGAINING**

Sec.