

§ 1.481-3

26 CFR Ch. I (4-1-04 Edition)

Increase in tax attributed to adjustment computed under section 481(b)(1)

Year	Amount of adjustment	Tax before adjustment	Tax after adjustment	Increase in tax liability attributable to adjustment
1958 .....	<sup>2</sup> 1,000	46,500	<sup>2</sup> 47,020	520
Increase in tax attributable to the adjustment computed under section 481(b)(2) .....				3,880

<sup>1</sup> Attributable to recomputations of net operating loss carrybacks determined with reference to net operating loss in 1955.  
<sup>2</sup> Attributable to the inclusion of \$1,000 in the year of the change which represents the portion of the \$10,000 adjustment not allocated to taxable years prior to the year of the change for which taxable income is established under the new method.

Since the limitation under section 481(b)(2) (\$3,880) on the amount of tax attributable to the adjustments is applicable, the final tax for the taxable year of the change is computed by adding such amount to the tax for that year computed without the inclusion of any amount attributable to the adjustments, that is, \$46,500 plus \$3,880, or \$50,380.

[T.D. 6500, 25 FR 11732, Nov. 26, 1960, as amended by T.D. 6490, 25 FR 8374, Sept. 1, 1960; T.D. 7301, 39 FR 963, Jan. 4, 1974; T.D. 8608, 60 FR 40078, Aug. 7, 1995]

**§ 1.481-3 Adjustments attributable to pre-1954 years where change was not initiated by taxpayer.**

If the adjustments required by section 481(a) and § 1.481-1 are attributable to a change in method of accounting which was not initiated by the taxpayer, no portion of any adjustments which is attributable to pre-1954 years shall be taken into account in computing taxable income. For example, if the total adjustments in the case of a change in method of accounting which is not initiated by the taxpayer amount to \$10,000, of which \$4,000 is attributable to pre-1954 years, only \$6,000 of the \$10,000 total adjustments is required to be taken into account under section 481 in computing taxable income. The portion of the adjustments which is attributable to pre-1954 years is the net amount of the adjustments which would have been required if the taxpayer had changed his method of accounting in his first taxable year which began after December 31, 1953, and ended after August 16, 1954.

[T.D. 6500, 25 FR 11735, Nov. 26, 1960, as amended by T.D. 8608, 60 FR 40079, Aug. 7, 1995]

**§ 1.481-4 Adjustments taken into account with consent.**

(a) In addition to the terms and conditions prescribed by the Commissioner under § 1.446-1(e)(3) for effecting a change in method of accounting, including the taxable year or years in which the amount of the adjustments required by section 481(a) is to be taken into account, or the methods of allocation described in section 481(b), a taxpayer may request approval of an alternative method of allocating the amount of the adjustments under section 481. See section 481(c). Requests for approval of an alternative method of allocation shall set forth in detail the facts and circumstances upon which the taxpayer bases its request. Permission will be granted only if the taxpayer and the Commissioner agree to the terms and conditions under which the allocation is to be effected. See § 1.446-1(e) for the rules regarding how to secure the Commissioner's consent to a change in method of accounting.

(b) An agreement to the terms and conditions of a change in method of accounting under § 1.446-1(e)(3), including the taxable year or years prescribed by the Commissioner under that section (or an alternative method described in paragraph (a) of this section) for taking the amount of the adjustments under section 481(a) into account, shall be in writing and shall be signed by the Commissioner and the taxpayer. It shall set forth the items to be adjusted, the amount of the adjustments, the taxable year or years for which the adjustments are to be taken into account, and the amount of the adjustments allocable to each year. The

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 482.**

This section contains major captions for §§ 1.482-1 through 1.482-8.

*§ 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.
      - (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.
        - (f) Written agreement.
        - (g) 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 prerequisite.
              - (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.
                          - (B) Circumstances warranting consideration of multiple year data.
                          - (C) Comparable effect over comparable period.
                        - (D) Applications of methods using multiple year averages.
                        - (E) Examples.
                        - (iv) Product lines and statistical techniques.
                        - (v) Allocations apply to results, not methods.
                          - (A) In general.
                          - (B) Example.
                          - (g) Collateral adjustments with respect to allocations under section 482.
                            - (1) In general.
                            - (2) Correlative allocations.