

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.