

controlled participants; the last sentence of § 1.482-7(d)(2)(ii), relating to repricing and other modifications of stock options; and § 1.482-7(d)(2)(iii)(C), providing consistency rules for measurement and timing of stock-based compensation.

### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that few small entities are expected to enter into QCSAs involving stock-based compensation, and that for those who do, the burdens imposed under § 1.482-7(d)(2)(iii)(B) and (j)(2)(i)(F) will be minimal. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f), the proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Drafting Information

The principal author of these regulations is Douglas Giblen of the Office of Associate Chief Counsel (International). However, other personnel from Treasury and the IRS participated in their development.

### List of Subjects

#### 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### 26 CFR Part 602

Reporting and recordkeeping requirements.

### Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 602 are amended as follows:

### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

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

- Sections 1.482-1, 1.482-5 and 1.482-7 also issued under 26 U.S.C. 482. \* \* \*
- **Par. 2.** Section 1.482-0 is amended by:
  - 1. Redesignating the entry for § 1.482-7(a)(3) as the entry for § 1.482-7(a)(4).
  - 2. Adding a new entry for § 1.482-7(a)(3).
  - 3. Redesignating the entry for § 1.482-7(d)(2) as the entry for § 1.482-7(d)(3).
  - 4. Adding new entries for § 1.482-7(d)(2).

The additions and redesignation read as follows:

#### § 1.482-0 Outline of regulations under section 482.

\* \* \* \* \*

#### § 1.482-7 Sharing of costs.

- (a) In general.
  - \* \* \* \* \*
  - (3) Coordination with § 1.482-1.
  - (4) Cross references.
    - \* \* \* \* \*
  - (d) Costs.
    - \* \* \* \* \*
    - (2) Stock-based compensation.
      - (i) In general.
      - (ii) Identification of stock-based compensation related to intangible development.
      - (iii) Measurement and timing of stock-based compensation expense.
        - (A) In general.
        - (1) Transfers to which section 421 applies.
        - (2) Deductions of foreign controlled participants.
        - (3) Modification of stock option.
        - (4) Expiration or termination of qualified cost sharing arrangement.
        - (B) Election with respect to options on publicly traded stock.
          - (1) In general.
          - (2) Publicly traded stock.
          - (3) Generally accepted accounting principles.
          - (4) Time and manner of making the election.
        - (C) Consistency.
        - (3) Examples.
          - \* \* \* \* \*

■ **Par. 3.** Section 1.482-1 is amended by:

- 1. Removing the sixth sentence of paragraph (a)(1) and adding two sentences in its place.
- 2. Adding a sentence at the end of paragraph (b)(2)(i).
- 3. Adding a sentence at the end of paragraph (c)(1).
- 4. Adding paragraph (j)(5).

The additions read as follows:

#### § 1.482-1 Allocation of income and deductions among taxpayers.

- (a) \* \* \*
- (1) \* \* \* Section 1.482-7T sets forth the cost sharing provisions applicable to

taxable years beginning on or after October 6, 1994, and before January 1, 1996. Section 1.482-7 sets forth the cost sharing provisions applicable to taxable years beginning on or after January 1, 1996. \* \* \*

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) \* \* \* Section 1.482-7 provides the specific method to be used to evaluate whether a qualified cost sharing arrangement produces results consistent with an arm's length result.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \* See § 1.482-7 for the applicable method in the case of a qualified cost sharing arrangement.

\* \* \* \* \*

(j) \* \* \*

(5) The last sentences of paragraphs (b)(2)(i) and (c)(1) of this section and of paragraph (c)(2)(iv) of § 1.482-5 apply for taxable years beginning on or after August 26, 2003.

■ **Par. 4.** Section 1.482-5 is amended by adding a sentence at the end of paragraph (c)(2)(iv) to read as follows:

#### § 1.482-5 Comparable profits method.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(iv) \* \* \* As another example, it may be appropriate to adjust the operating profit of a party to account for material differences in the utilization of or accounting for stock-based compensation (as defined by § 1.482-7(d)(2)(i)) among the tested party and comparable parties.

\* \* \* \* \*

■ **Par. 5.** Section 1.482-7 is amended by:

- 1. Redesignating paragraph (a)(3) as paragraph (a)(4).
- 2. Adding a new paragraph (a)(3).
- 3. Redesignating paragraph (d)(2) as paragraph (d)(3).
- 4. Adding a new paragraph (d)(2).
- 5. Removing the word "and" at the end of paragraph (j)(2)(i)(D).
- 6. Removing the period at the end of paragraph (j)(2)(i)(E) and adding "; and" in its place.
- 7. Adding paragraph (j)(2)(i)(F).
- 8. Revising paragraph (k).

The additions and revision read as follows:

#### § 1.482-7 Sharing of costs.

(a) \* \* \*

(3) *Coordination with § 1.482-1.* A qualified cost sharing arrangement produces results that are consistent with an arm's length result within the meaning of § 1.482-1(b)(1) if, and only if, each controlled participant's share of