

qualification requirements) under any particular definition of internal-use software. In addition, the Treasury Department and the IRS are concerned that a definition of internal-use software that relies upon the “primary” or “principal” use of that software would be difficult to apply and administer. The Treasury Department and the IRS’ continuing goal is that any final rule must provide clear, objective guidance on what software is treated as internal-use software for purposes of the research credit.

Effective Dates

On December 31, 2003, the Treasury Department and the IRS issued final regulations (TD 9104) relating to the definition of qualified research under section 41(d). The final regulations apply to taxable years ending on or after December 31, 2003. The final regulations do not contain final rules for research with respect to computer software “which is developed by (or for the benefit of) the taxpayer primarily for internal use by the taxpayer” for purposes of section 41(d)(4)(E) (*i.e.*, internal-use software).

The Treasury Department and the IRS have announced in prior guidance, including Notice 87–12 (1987–1 C.B. 432) and more recently in the 2001 proposed regulations, that final regulations relating to internal-use software generally will be effective for taxable years beginning after December 31, 1985. In light of the length of time that has passed since 1986, as well as the developments with respect to computer software discussed in this ANPRM, the Treasury Department and the IRS request comments on whether final regulations relating to internal-use software should have any retroactive effect.

With respect to internal-use software for taxable years beginning after December 31, 1985, and until further guidance is published in the **Federal Register**, taxpayers may continue to rely upon all of the provisions relating to internal-use software in the 2001 proposed regulations (66 FR 66362). Alternatively, taxpayers may continue to rely upon all of the provisions

relating to internal-use software in TD 8930 (66 FR 280). For example, taxpayers relying upon the internal-use software rules of TD 8930 must also apply the “discovery test” as set forth in TD 8930.

Request for Public Comment

The Treasury Department and the IRS invite interested persons to submit comments (in the manner described in the **ADDRESSES** caption) on issues arising under the provisions for internal-use software. The Treasury Department and the IRS invite comments that address any of the definitions included in prior guidance as well as other definitions that have been proposed to the Treasury Department and the IRS by commentators. Specifically, the Treasury Department and the IRS invite comments that provide a definition of internal-use software that—

1. Appropriately reflects the statute and legislative history;
2. Can be readily applied by taxpayers and readily administered by the IRS; and
3. Is flexible enough to provide continuing application in the future.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–146893–02, REG–115037–00]

RIN 1545–BB31, 1545–AY38

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

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a correction of a notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a correction of a notice of proposed rulemaking and notice of public hearing that was published in the **Federal Register** on Wednesday, December 17, 2003 (68 FR 70214). The proposed regulations provide guidance regarding the treatment of controlled services transactions under section 482 and the allocation of income from intangibles, in particular when one controlled taxpayer performs activities that increase (or are expected to increase) the value of an intangible owned by another controlled taxpayer.

FOR FURTHER INFORMATION CONTACT:

Helen Hong-George, (202) 435–5265 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking and notice of public hearing that is the subject of this correction is under section 482 of the Internal Revenue Code.

Need for Correction

As published, the correction to the notice of proposed rulemaking and notice of public hearing contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the correction to a notice of proposed regulations and notice of public hearing (REG–146893–02, REG–115037–00), that was the subject of FR Doc. 03–31034, is corrected as follows:

On page 70215, column 1, item 3, third line from the bottom of the paragraph, the language, “expressed as ration” is corrected to read “expressed as ratio”.

Cynthia E. Grigsby,

Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedures and Administration).

[FR Doc. 03–31824 Filed 12–31–03; 8:45 am]

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