

(iii) Whether contracts between the credit union and the third-party servicer grant the credit union sufficient control over the servicer's actions and provide for replacing an inadequate servicer; and

(iv) Other factors relevant to safety and soundness.

(3) For purposes of paragraph (h) of this section:

(i) The term "third-party servicer" means any entity, other than a federally-insured depository institution or a wholly-owned subsidiary of a federally-insured depository institution, that receives any scheduled periodic payments from a borrower pursuant to the terms of a loan and distributes the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.

(ii) The term "its affiliates," as it relates to the third-party servicer, means any entities that:

(A) Control, are controlled by, or are under common control with, that third-party servicer; or

(B) Are under contract with that third-party servicer or other entity described in paragraph (h)(3)(ii)(A) of this section.

(iii) The term "vehicle loan" means any installment vehicle sales contract or its equivalent that the credit union must report as an asset under generally accepted accounting principles. The term does not include loans made directly by the credit union to a member.

(iv) The term "net worth" means the retained earnings balance of the credit union at quarter end as determined under generally accepted accounting principles. For low income-designated credit unions, net worth also includes secondary capital accounts that are uninsured and subordinate to all other claims, including claims of creditors, shareholders, and the National Credit Union Share Insurance Fund.

\* \* \* \* \*

## PART 741—REQUIREMENTS FOR INSURANCE

3. The authority citation for part 741 continues to read as follows:

**Authority:** 12 U.S.C. 1757, 1766, 1781–1790, and 1790d. Section 741.4 is also authorized by 31 U.S.C. 3717.

4. Add a new paragraph (c) to § 741.203 to read as follows:

### § 741.203 Minimum loan policy requirements.

\* \* \* \* \*

(c) Adhere to the requirements stated in § 701.21(h) of this chapter concerning

third-party servicing of indirect vehicle loans. Before a state-chartered credit union applies to a regional director for a waiver under § 701.21(h)(2) it must first notify its state supervisory authority. The regional director will not grant a waiver unless the appropriate state official concurs in the waiver.

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG–144615–02]

RIN 1545–BB26

### Section 482: Methods To Determine Taxable Income in Connection With a Cost Sharing Arrangement; Correction

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

**ACTION:** Correction to notice of proposed rulemaking.

**SUMMARY:** This document corrects notice of proposed rulemaking (REG–144615–02) that was published in the **Federal Register** on Monday, August 29, 2005 (70 FR 51116). The document contains proposed regulations that provide guidance regarding methods under section 482 to determine taxable income in connection with a cost sharing arrangement.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey L. Parry or Christopher J. Bello, (202) 435–5265 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The notice of proposed rulemaking (REG–144615–02) that is the subject of this correction is under section 482 of the Internal Revenue Code.

##### Need for Correction

As published, REG–144615–02 contains errors that may prove to be misleading and are in need of clarification.

##### Correction of Publication

Accordingly, the notice of proposed rulemaking (REG–144615–02), that was the subject of FR Doc. 05–16626, is corrected as follows:

1. On page 51116, column 2, in the preamble, under the paragraph heading "Paperwork Reduction Act", eighth paragraph, third line, the language "of information (see below);" is corrected to read "of information (see above);".

2. On page 51116, column 3, in the preamble, under the paragraph heading "Background", tenth line from the bottom of the last paragraph, the language "for this type of external contributions is" is corrected to read "for this type of external contribution is".

3. On page 51117, column 1, in the preamble, under the paragraph heading "A. Overview", fourth line from the bottom of the first paragraph, the language "the commensurate income standard" is corrected to read "the commensurate with income standard".

4. On page 51117, column 2, in the preamble, under the paragraph heading "A. Overview", the second line from the bottom of the column, the language "appropriate return would be provided to such" is corrected to read "appropriate return would be required to such".

5. On page 51118, column 2, in the preamble, under the paragraph heading "1. General Rule—Proposed § 1.482–7(a)", the last line of the second paragraph, the language "exploiting cost shared intangibles." is corrected to read "exploiting the cost shared intangibles.".

6. On page 51118, column 3, in the preamble, under the paragraph heading "1. General Rule Proposed § 1.482–7(a)", the second line from the bottom of the first full paragraph of the column, the language "the rules of §§ 1.482–1 and 1.482–5" is corrected to read "the rules of §§ 1.482–1 and 1.482–4".

7. On page 51118, column 3, in the preamble, under the paragraph heading "a. CSA Transactions in General", the eighth line of the first paragraph, the language "circumstances. (Emphasis added.)" is corrected to read "circumstances \* \* \* (Emphasis added.)".

8. On page 51119, column 1, in the preamble, under the paragraph heading "a. CSA Transactions in General", the fifteenth line of the first paragraph of the column, the language "expected in a cost sharing agreement" is corrected to read "expected in a cost sharing arrangement.".

9. On page 51119, column 1, in the preamble, under the paragraph heading "a. CSA Transactions in General", the second line from bottom of the second full paragraph, the language "be provided to such party to reflect its" is corrected to read "be required to such party to reflect its".

10. On page 51124, column 3, in the preamble, under the paragraph heading "h. Valuation Consistent With the Investor Model—Proposed § 1.482–7(g)(2)(viii)", the third line from the bottom of the column, the language

“would be expected to yield a rate return” is corrected to read “would be expected to yield a rate of return”.

11. On page 51125, column 1, in the preamble, under the paragraph heading “h. Valuation Consistent With the Investor Model—Proposed § 1.482–7(g)(2)(viii)”, the sixth and seventh lines from the bottom of the column, the language “ins effectively diminish the value of the buy-in payments, such that the return to” is corrected to read “ins effectively diminishes the value of the buy-in payments, such that”.

12. On page 51125, column 2, in the preamble, under the paragraph heading “i. Coordination of Best Method Rule and Form of Payment—Proposed § 1.482–7(g)(2)(ix)”, the last line of the paragraph, the language “method as to its method payment form.” is corrected to read “method.”.

13. On page 51127, column 1, in the preamble, under the paragraph heading “6. Market Capitalization Method—Proposed § 1.482–7(g)(6)”, the seventeenth and eighteenth lines of the first full paragraph, the language “separately accounted for under proposed § 1.482–7(d) and by the value” is corrected to read “(separately accounted for under proposed § 1.482–7(d)) and by the value”.

14. On page 51128, column 3, in the preamble, under the paragraph heading “2. Allocations When CSTs Are Consistently and Materially Disproportionate to RAB Shares—Proposed § 1.482–7(i)(5)”, the second full paragraph of the column, the first line, the language “Current § 1.482–7(g)(5) provides that” is corrected to read “Current § 1.482–7(g)(5) to the extent it provides that”.

15. On page 51129, column 2, in the preamble, under the paragraph heading “3. Periodic Adjustments—Proposed § 1.482–7(i)(6)”, the fourth line from the bottom of the first full paragraph of the column, the language “*would be provided to such party to*” is corrected to read “*would be required to such party to*”.

16. On page 51130, column 1, in the preamble, under the paragraph heading “3. Periodic Adjustments—Proposed § 1.482–7(i)(6)”, the seventh line from the top of the column, the language “profits, cost contributions, or PCT” is corrected to read “profits, cost contributions, and PCT”.

17. On page 51130, column 3, in the preamble, under the paragraph heading “6. Territorial Operating Profit or Loss—Proposed § 1.482–7(j)(1)(vi)”, the sixth line of the paragraph, the language “Activity, determined before an expense” is corrected to read “Activity, determined before any expense”.

#### § 1.482–7 [Corrected]

18. On page 51133, column 2, § 1.482–7(b)(5)(iii), the language “Example.” is corrected to read “Examples.”.

19. On page 51133, column 2, § 1.482–7(e)(2)(ii), the language “Indirect bases for measuring benefits.” is corrected to read “Indirect bases for measuring anticipated benefits.”.

20. On page 51133, column 3, § 1.482–7(g)(2)(x), the language “Coordination of the valuations or prior and subsequent PCTs.” is corrected to read “Coordination of the valuations of prior and subsequent PCTs.”.

21. On page 51133, column 3, § 1.482–0 is corrected by adding two entries to the outline for § 1.482–7(g)(2)(x)(A) and (g)(2)(x)(B) to read as follows:

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

\* \* \* \* \*

#### § 1.482–7 Methods to determine taxable income in connection with a cost sharing arrangement.

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(x) \* \* \*

(A) In general.

(B) Coordination with regard to PFAs.

\* \* \* \* \*

22. On page 51133, column 3, § 1.482–7(g)(7), the language “Residual profit split.” is corrected to read “Residual profit split method.”.

23. On page 51134, column 1, § 1.482–7(i)(6)(vi)(A), second line, the language “external contributions as in the PCT.” is corrected to read “external contribution as in the PCT.”.

24. On page 51134, column 1, § 1.482–7(i)(6)(viii), the language “Documentation.” is removed.

#### § 1.482–5 [Corrected]

25. On page 51136, column 3, § 1.482–7(b)(3)(viii), *Example 4.*, second line from the bottom of the paragraph, the language “as Company’s P acquisition of Company X,” is corrected to read “as Company P’s acquisition of Company X,”.

26. On page 51140, column 3, § 1.482–7(e)(2)(ii)(C), sixth line, the language “amortization) on account of IDCs, may” is corrected to read “amortization) on account of IDCs, may”.

27. On page 51141, column 1, § 1.482–7(e)(2)(ii)(E), *Example 2.*, lines fourteen through seventeen, the language “relative to USS’ units by a factor of 2. This reflects the fact that FP pays twice as much as USS as a

percentage of its other production costs for electricity and,” is corrected to read “relative to USS’s units by a factor of 2. This reflects the fact that FP pays twice as much as USS for electricity and,”.

28. On page 51142, column 1, § 1.482–7(e)(2)(iii)(B), paragraph (ii) of *Example 1.*, fourth line, the language “order to reflect USS’ one-year lag in” is corrected to read “order to reflect USS’s one-year lag in”.

29. On page 51142, column 2, § 1.482–7(g), ninth line, the language “provisions of § 1.482–1, including best” is corrected to read “provisions of § 1.482–1, including the best”.

30. On page 51143, column 1, § 1.482–7(g)(2)(iv)(B), paragraph (i) of *Example 1.*, first line of the column, the language “product and are therefore the RT Rights in” is corrected to read “product and therefore the RT Rights in”.

31. On page 51143, column 1, § 1.482–7(g)(2)(iv)(B), paragraph (iii) of *Example 1.*, third line, the language “product outside of the Country X for a royalty” is corrected to read “product outside of Country X for a royalty”.

32. On page 51144, column 1, § 1.482–7(g)(2)(vi)(B), *Example 1.*, twenty second line, the language “USPharm in the form of the RT Rights in its” is corrected to read “USPharm consisting of the RT Rights in its”.

33. On page 51144, column 2, § 1.482–7(g)(2)(vi)(B), *Example 2.*, fourth line from the top of the column, the language “USPharm’s cost of debt is 6%. Equity” is corrected to read “USPharm’s after-tax cost of debt is 6%. Equity”.

34. On page 51144, column 2, § 1.482–7(g)(2)(vii)(B), paragraph (ii) of *Example 1.*, sixth line, the language “technology and workforce of Company X” is corrected to read “technology and workforce of Company X are”.

35. On page 51144, column 3, § 1.482–7(g)(2)(vii)(B), paragraph (ii) of *Example 1.*, second line from the bottom of the paragraph, the language “PCTs. See paragraph (g)(5)(iv)(A) of this” is corrected to read “PCTs. See paragraph (g)(5)(iv)(A) of this”.

36. On page 51146, column 3, § 1.482–7(g)(4)(ii)(B), paragraph (i) of *Example.*, twentieth line, the language “did not participate in the CSA, its next best” is corrected to read “did not participate in the CSA, its best”.

37. On page 51146, column 3, § 1.482–7(g)(4)(ii)(B), paragraph (ii) of *Example.*, fourth line, the language “present value to USP of the next best realistic” is corrected to read “present value to USP of the best realistic”.

38. On page 51148, column 1, § 1.482–7(g)(4)(iv)(D), paragraph (ii) of

*Example.*, second line, the language “Payment under the income method is an” is corrected to read “Payment based on territorial sales under the income method is an”.

39. On page 51148, column 1, § 1.482–7(g)(4)(iv)(D), paragraph (ii) of *Example.*, fifth line, the language “case the alternative rate is 80% ((\$80 million)” is corrected to read “case the alternative rate is 80% (\$80 million)”.

40. On page 51148, column 1, § 1.482–7(g)(4)(iv)(D), paragraph (ii) of *Example.*, fourteenth line, the language “payable by the FS to the USP over the period” is corrected to read “payable by FS to USP over the period”.

41. On page 51148, column 1, § 1.482–7(g)(4)(iv)(D), paragraph (iii) of *Example.*, sixth line, the language “alternative rate is 100% ((\$80 million)” and is corrected to read “alternative rate is 100% (\$80 million)”.

42. On page 51148, column 1, § 1.482–7(g)(4)(iv)(D), paragraph (iii) of *Example.*, fifth line from the bottom of the paragraph, the language “PCT Payment, payable by the FS to the USP” is corrected to read “PCT Payment, payable by FS to USP”.

43. On page 51148, column 2, § 1.482–7(g)(4)(vi)(C), sixth line, the language “considerations stated in § 1.482–5(c)” is corrected to read “considerations stated in § 1.482–5(c) may”.

44. On page 51149, column 1, § 1.482–7(g)(5)(v), eighth line from the bottom of the paragraph, the language “acquisition price \$100 million (\$110 million)” is corrected to read “acquisition price of \$100 million (\$110 million)”.

45. On page 51149, column 3, § 1.482–7(g)(6)(vi), *Example 2.*, lines six through nine, the language “reasonably anticipated to contribute software development that is the subject of the CSA and are therefore not external contributions and accordingly not required to be covered” is corrected to read “reasonably anticipated to contribute to the software development that is the subject of the CSA and, therefore, are not external contributions and, accordingly, are not required to be covered”.

46. On page 51150, column 3, § 1.482–7(g)(7)(iii)(C)(4), second line from the bottom of the paragraph, the language “controlled participant for its such” is corrected to read “controlled participant for such”.

47. On page 51151, column 1, § 1.482–7(g)(7)(iv)(D), third line, the language “3, 1.482–4, and 1.482–5, or with the” is corrected to read “3, 1.482–4, and 1.482–5, or the”.

48. On page 51151, column 3, § 1.482–7(g)(7)(v)(ix), sixth line, the language “amount of its territorial operating iprofit or” is corrected to read “amount of its territorial operating profit or”.

49. On page 51154, column 1, § 1.482–7(i)(2)(ii)(D), paragraph (iii) of *Example 7.*, fourth line from the bottom of the paragraph, the language “Commissioner adjusts costs shares for each of” is corrected to read “Commissioner adjusts cost shares for each of”.

50. On page 51155, column 1, § 1.482–7(i)(6)(v)(A)(1), fifth and sixth lines, the language “paragraphs (i)(6)(vi)(A)(2) and (i)(6)(vi)(A)(3) of this section.” is corrected to read “paragraphs (i)(6)(v)(A)(2) and (i)(6)(v)(A)(3) of this section.”.

51. On page 51155, column 2, § 1.482–7(i)(6)(v)(B)(1), fifth and sixth lines, the language “specified in paragraphs (i)(6)(vi)(B)(2) and (i)(6)(vi)(B)(3) of this section.” is corrected to read “specified in paragraphs (i)(6)(v)(B)(2) and (i)(6)(v)(B)(3) of this section.”.

52. On page 51155, column 2, § 1.482–7(i)(6)(vi)(D)(1), fifth line, the language “RT (as defined in paragraph (b)(3)(iii) of” is corrected to read “RT (as defined in paragraph (b)(3)(iv) of”.

53. On page 51155, column 3, § 1.482–7(i)(6)(vi)(D)(2), second line, the language “(i)(6)(vii)(D) of this section, the” is corrected to read “(i)(6)(vi)(D) of this section, the”.

54. On page 51156, column 1, § 1.482–7(i)(6)(vi)(E), fourth line from the top of the column, the language “CSA is, then no periodic adjustment in” is corrected to read “CSA, then no periodic adjustment in”.

55. On page 51156, column 3, § 1.482–7(i)(6)(vi)(F)(vii), paragraph (ii) of *Example 1.*, third line, the language “cash flows include the lump sum PCT of” is corrected to read “cash flows include the lump sum PCT Payment of”.

56. On page 51158, column 1, § 1.482–7(j)(1)(viii), *Example 1.*, second line from the bottom of the paragraph, the language “derive a benefit from the exploiting the” is corrected to read “derive a benefit from exploiting the”.

57. On page 51158, column 3, § 1.482–7(j)(3)(iii), *Example 1.*, twelfth line, the language “FS’s share is 120X. The payment will be” is corrected to read “FS’s share is 120X so that FS must make a payment to USP of 20X. The payment will be”.

58. On page 51160, column 1, § 1.482–7(k)(2)(ii)(j)(2), last line, the language “use;” is corrected to read “used;”.

59. On page 51160, column 1, § 1.482–7(k)(2)(ii)(j)(4), fourth line, the language “controlled participant method selected” is corrected to read “controlled participant’s method selected”.

60. On page 51161, column 2, § 1.482–7(m)(3)(vii), fifth line, the language “paragraph (m)(3)(iv) of this section no” is corrected to read “paragraph (m)(3)(v) of this section no”.

#### § 1.482–8 [Corrected]

61. On page 51161, column 3, § 1.482–8, paragraph (i) of *Example 10.*, fourteenth line, the language “Y, a promising molecular compound derived” is corrected to read “X, a promising molecular compound derived”.

62. On page 51161, column 3, § 1.482–8, paragraph (i) of *Example 11.*, sixth line, the language “are its workforce and the its sole patent,” is corrected to read “are its workforce and its sole patent,”.

63. On page 51161, column 3, § 1.482–8, paragraph (i) of *Example 11.*, thirteenth line, the language “derived from Compound Y. Compound X is” is corrected to read “derived from Compound Y. Compound Y is”.

64. On page 51161, column 3, § 1.482–8, paragraph (i) of *Example 11.*, eighteenth line, the language “the developing Oncol under the CSA. The RT” is corrected to read “developing Oncol under the CSA. The RT”.

65. On page 51162, column 2, § 1.482–8, paragraph (ii) of *Example 14.*, sixth line, the language “evidence of the arm’s length price of USP” is corrected to read “evidence of the arm’s length price of USP’s”.

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