

SUPPORTING STATEMENT
Treatment of Services Under Section 482;
Allocation of Income and Deductions From Intangible Property;
Stewardship Expense
OMB Control Number 1545-2149

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This collection of information is required in order for taxpayers that adopt the services cost method or shared services arrangement under Treas. Reg. §1.482-9 (b) to satisfy regulatory requirements. It is also required in order for taxpayers that adopt such methods to avoid the imposition of section 482 accuracy-related penalties under section 6662(e).

Section 482 of the Internal Revenue Code provides that the IRS may distribute, apportion, or allocate income, deductions, credits or allowances between or among controlled taxpayers if it is necessary to prevent evasion of taxes or to clearly reflect income of the controlled taxpayers. Under the arm's length standard of §1.482-1(b)(1), an allocation under section 482 may be necessary to determine the true taxable income of a controlled taxpayer if the price charged in the controlled transaction under review does not provide an arm's length result.

Section 1.482-9 provides methods to determine the arm's length amount charged in controlled services transactions. Section 1.482-9 (b) provides the services cost method and shared services arrangement, which are optional methods available at the taxpayer's discretion. Section 1.482-9 (b) requires taxpayers that adopt the services cost method or the shared services arrangement to maintain certain documents, including statements evidencing their intention to apply such methods, as well as other documentation sufficient to permit verification by the Commissioner of the arm's length charge for such services.

Section 6662(b)(3) imposes an accuracy-related penalty on any substantial valuation misstatement described in §6662(e). Section 6662(e)(3)(B) provides that such a penalty may not apply to a net section 482 transfer pricing adjustment if the taxpayer meets the following conditions: (1) taxpayer reasonably applies a specified method prescribed under section 482; (2) taxpayer has documentation which sets forth the determination of such price in accordance with such method, and which establishes that such use was reasonable; and (3) taxpayer provides such documentation to the Secretary within 30 days of a request for such documentation. Section 1.6662-6 (d)(2) (ii)(B), which will also be finalized in this regulation package, clarifies that a taxpayer may reasonably conclude that the services cost method provides the most reliable measure of an arm's length result in a controlled services transaction only if it has made a reasonable effort to meet the conditions and requirements for application of this method as set forth in §1.482-9(b). The determination of whether the controlled taxpayer's conclusion is reasonable must be determined from all the facts and circumstances. The factors relevant to this determination include documentation submitted by the taxpayer to the IRS described in §§1.6662-6(d)(2)(iii)(B)(4) and (6).

2. USE OF DATA

The data will be used to confirm taxpayers' adoption of the services cost method or shared services arrangement, and permit verification by the Commissioner of the total services cost incurred by the renderer of such services.

Taxpayers must maintain such documentation in order to satisfy the documentation requirements contained in the net section 482 penalty exclusion provision under §1.6662-6(d).

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

The services cost method and shared services arrangement under §1.482-9(b) are designed specifically to reduce taxpayer transfer pricing analysis, administration, and documentation burden. Thus, any taxpayer (large or small) that adopts either of these methods will inherently have a simplified and reduced documentation and recordkeeping requirement than if they adopted another transfer pricing method for such controlled services. Furthermore, this inherently reduces taxpayers burden for satisfying the net section 482 penalty exclusion provision under §1.6662-6(d).

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

The information required of U.S. persons will be used on audit to verify compliance with Section 482 of the Internal Revenue Code. Less frequent collection of taxes could adversely affect the government's effectiveness and would reduce the oversight of the public in ensuring compliance with Internal Revenue Service Code.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

A notice of proposed rulemaking (REG-1486893-02 and REG-11503-00) were published in the *Federal Register* (68 FR 53448) on September 10, 2003, relating to the treatment of controlled services transactions and the allocation of income from intangible property, in particular with respect to contributions by a controlled party to the value of intangible property owned by another controlled party.

Temporary regulations (REG-146893-02, 115037-00, and 138603-03) relating to the treatment of controlled services transactions, the allocation of income from intangible property, and stewardship expenses were published in the *Federal Register* on August 4, 2006, at 71 FR 44466 as TD 9278. Comments received in response to the 2003 NPRM were summarized and addressed in the preamble. An NPRM cross-referencing this temporary regulation was published the same day at 71 FR 44247 to provide an additional comment period.

The temporary regulations were adopted at TD 9456 on August 4, 2009, at 74 FR 38830. Comments received in response to the 2006 regulations are summarized and addressed in the preamble.

The agency received no comments during the comment period in response to the Federal Register Notice dated May 6, 2016(81 FR 27219).

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collection of information required in this regulation is in §1.482-9(b), and §§1.6662-6(d)(2)(iii)(B)(4) and (6).

Estimate of recordkeeping and documentation requirements:

Respondents	Time per Response	Total Burden Hours
1,000	4.5 hours.	4,500 hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Estimates of annualized cost to respondent for the hour burdens shown are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There are no costs to the federal government as the collection only imposes record keeping burden on the taxpayer.

15. REASONS FOR CHANGE IN BURDEN

There is no change to the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis, and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulations sunset as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.