

SCHEDULE P (Form 1120-FSC)

Computation of Transfer Price or Commission

OMB No. 1545-0935

Attach a separate Schedule P to Form 1120-FSC for each transaction, group of transactions, or aggregate of transactions to which the pricing rules under sections 925(a)(1) and (2) are applied.

1989

Department of the Treasury Internal Revenue Service

For amount reported on line _____, Schedule _____, Form 1120-FSC.

Name as shown on Form 1120-FSC

This schedule is for a (check one—see Instruction A): (a) Single transaction (b) Group of transactions (c) Aggregate of transactions

Identify product or product line reported on this schedule. (Also, enter the Principal Business Activity code, if used.) (See Instruction A.)

Employer identification number

Part I Computation of FSC Profit

Section A.—Computation of Combined Taxable Income

Section A-1.—If full costing is used (or if 100% of full costing combined taxable income limitation is applicable)

- 1 Foreign trading gross receipts from transaction between FSC (or related supplier) and third party
2 Costs and expenses allocable to foreign trading gross receipts from transaction:
a Cost of goods sold attributable to property if sold, or depreciation attributable to property if leased
b Related supplier's expenses allocable to foreign trading gross receipts from transaction
c FSC's expenses allocable to foreign trading gross receipts from transaction
d Add lines 2a through 2c
3 Combined taxable income (subtract line 2d from line 1—if the result is a negative number, enter zero)

Section A-2.—If marginal costing is used

- 4 Foreign trading gross receipts from resale by FSC (or sale by related supplier) to third party
5 Costs and expenses allocable to foreign trading gross receipts from sale:
a Cost of direct material attributable to property sold
b Cost of direct labor attributable to property sold
c Add lines 5a and 5b
6 Combined taxable income (or loss) before application of overall profit percentage limitation (subtract line 5c from line 4—if the result is a negative number, skip lines 7 through 11 and enter zero on line 12)
7 Gross receipts of related supplier and FSC (or controlled group) from all foreign and domestic sales of the product or product line
8 Costs and expenses of related supplier and FSC (or controlled group) allocable to gross income from such sales:
a Cost of goods sold attributable to property sold
b Expenses allocable to gross income from such sales
c Add lines 8a and 8b
9 Total taxable income on full costing basis (subtract line 8c from line 7—if the result is a negative number, skip lines 10 and 11 and enter zero on line 12)
10 Overall profit percentage (divide line 9 by line 7) (if controlled group optional method is used, check here)
11 Overall profit percentage limitation (multiply line 4 by line 10)
12 Combined taxable income (enter the smaller of line 6 or line 11)

Section B.—23% of Combined Taxable Income Method

- 13 Combined taxable income (enter amount from line 3 or line 12)
14 Enter 23% of line 13
15 FSC profit—Enter amount from line 14 (or if marginal costing was used, the smaller of line 3 or line 14)

Section C.—1.83% of Foreign Trading Gross Receipts Method

- 16 Foreign trading gross receipts from transaction (enter amount from line 1)
17 Multiply line 16 by 1.83%
18 Multiply line 3 or line 12 (as elected by related supplier) by 46%
19 FSC profit—Enter the smallest of line 3, line 17, or line 18

Part II Computation of Transfer Price From Related Supplier to FSC

- 1 Foreign trading gross receipts from transaction (enter amount from line 1 or line 4, Part I)
2 Reductions:
a FSC profit (applicable amount from line 15 or 19, Part I)
b FSC expenses allocable to foreign trading gross receipts from transaction
c Add lines 2a and 2b
3 Transfer price from related supplier to FSC—Line 1 less line 2c (see Instruction E)

Part III Computation of FSC Commission From Related Supplier

- 1 FSC profit (applicable amount from line 15 or 19, Part I)
2 FSC expenses allocable to foreign trading gross receipts from transaction
3 FSC commission from related supplier—Add lines 1 and 2 (see Instruction E)

Instructions

(Section references are to the Internal Revenue Code unless otherwise noted.)

A. Purpose of Schedule.—Complete this schedule (and attach it to Form 1120-FSC) for any FSC that generated (for the tax year) foreign trading gross receipts (defined in Instruction C): (1) from the resale of export property or services supplied by a “related party” OR (2) in its capacity as commission agent for a “related supplier” in the disposition of any export property or services. For these purposes, a “related party” or a “related supplier” is an entity that is “owned or controlled directly or indirectly by the same interests” as the FSC within the meaning of section 482 and Regulations section 1.482-1(a).

Use this schedule to determine the allowable transfer price to be charged to the FSC (or the commission to be paid to the FSC) in accordance with the administrative pricing rules (described in Instruction B below). The result is used to properly allocate the foreign trading gross receipts generated from the sale of export property or services between the FSC and its “related supplier.”

Checkboxes at the top of page 1: Generally, the determinations described above are to be made on a transaction-by-transaction basis (and, as such, a FSC is generally required to complete a separate Schedule P for each transaction). However, Temporary Regulations section 1.925(a)-1T(c)(8) provides that the FSC’s related supplier may make an annual election (checkbox (b)) to make some or all of these determinations on the basis of groups consisting of products or product lines. If a group basis is elected, it will apply to all transactions with respect to that product or product line consummated during the tax year. The transaction-by-transaction method is to be used for all transactions with respect to which the related supplier did not make an election to group. **Note:** *Sale transactions may not be grouped with lease transactions.*

The determination as to a product or product line will be accepted if it conforms to any one of the following standards: (1) a recognized industry or trade usage, or (2) the 2-digit major groups (or any inferior classifications or combinations of inferior classifications within a major group) of the Standard Industrial Classifications.

In the alternative, the FSC’s related supplier may make an annual election (checkbox (c)) to aggregate transactions or groups of transactions on the basis of the administrative pricing method (see Instruction B below) used. If this alternative election is used, supporting schedules for each transaction or group of transactions must be maintained by the FSC and its related supplier.

B. Administrative Pricing Rules.—Any or all of the methods described below may be used in the same tax year of the FSC for separate transactions (or separate groups of transactions):

● **1.83% of foreign trading gross receipts method.**—Under this method, the related supplier may determine an allowable transfer price to be charged to the FSC (or an allowable commission to be paid to the FSC) that permits the FSC to produce a profit on the transaction that does not exceed 1.83% of the foreign trading gross receipts of the FSC. The profit derived under this method may not exceed twice the profit determined under

either the 23% of combined taxable income method or the marginal costing method (described below) as elected by the related supplier.

● **23% of combined taxable income method.**—Under this method, the related supplier may determine an allowable transfer price to be charged to the FSC (or an allowable commission to be paid to the FSC) that permits the FSC to produce a profit on the transaction that does not exceed 23% of the combined taxable income of the FSC and the related supplier attributable to the foreign trading gross receipts from such sale.

● **Full costing combined taxable income.**—If the FSC is the principal on the sale of export property, the full costing combined taxable income of the FSC and its related supplier from the sale is the excess of the “foreign trading gross receipts” of the FSC from the sale over the “total costs” of the FSC and related supplier including the related supplier’s cost of goods sold and its and the FSC’s noninventoriable costs (see Regulations section 1.471-11(c)(2)(ii)) that relate to the foreign trading gross receipts. See Temporary Regulations section 1.925(a)-1T(c)(6)(iii) for special rules regarding the determination of “gross receipts” and “total costs.” Interest or carrying charges are not foreign trading gross receipts.

● **Section 482 method.**—If the 1.83% and 23% methods are not applicable to a sale or if the related supplier does not choose to use them, the transfer price for a sale by the related supplier to the FSC is to be determined on the basis of the sales price actually charged but subject to the rules provided by section 482 (and the regulations thereunder) and by Temporary Regulations section 1.925(a)-1T(a)(3)(ii). **Do not complete Schedule P if the section 482 method is used.**

● **Incomplete transactions.**—For purposes of the 1.83% and 23% methods, if export property that the FSC purchased from the related supplier is not resold by the FSC before the close of either the FSC’s tax year or the tax year of the related supplier during which the property was transferred, the transfer price of such property is the related supplier’s cost of goods sold with respect to such property. See Temporary Regulations section 1.925(a)-1T(c)(5)(C) for special rules regarding the determination of the transfer price for the subsequent tax year during which the export property is resold by the FSC. **Do not complete Schedule P for incomplete transactions.**

“No loss” rules: (1) If there is a combined loss (line 3 or line 12 of Part I), the FSC may not earn a profit under either the 1.83% or 23% methods. Also, in applying the 1.83% method, the FSC’s profit (to be reported on line 19, Part I) may not exceed 100% of full costing combined taxable income (line 3, Part I). The related supplier may in all situations set a transfer price or rental payment or pay a commission in an amount that will allow the FSC to recover an amount not in excess of its costs, if any, even if to do so would create, or increase, a loss in the related supplier.

(2) If the FSC recognizes income while the related supplier recognizes a loss on a sale transaction under the section 482 method, neither the 1.83% method nor the 23% method may be used by the FSC and related supplier (or by a FSC in the same controlled group and the related supplier) for any other sale transaction, or group of sale transactions,

during the tax year that falls within the same three digit Standard Industrial Classification as the subject sale transaction.

● **Marginal costing.**—If, for the tax year, the FSC is treated as seeking to “establish or maintain a foreign market” (as defined in Temporary Regulations section 1.925(b)-1T(c)(1)) for sales of an item, product, or product line of “export property” (as defined in Temporary Regulations section 1.927(a)-1T) from which foreign trading gross receipts (defined in Instruction C) are derived, the marginal costing rules outlined below may be applied at the related supplier’s election to compute combined taxable income of the FSC and related supplier derived from those sales.

Under marginal costing, only direct production costs of producing a particular item, product, or product line are taken into account for purposes of computing the combined taxable income of the FSC and its related supplier. The costs to be taken into account are the related supplier’s direct material and labor costs (as defined in Regulations section 1.471-11(b)(2)(i)).

The combined taxable income of the FSC and its related supplier may not exceed the overall profit percentage (line 11, Part I) multiplied by the FSC’s foreign trading gross receipts if the FSC is the principal on the sale (or the related supplier’s gross receipts if the FSC is a commission agent) from the sale of export property.

See Temporary Regulations section 1.925(b)-1T for additional information regarding the application of the marginal costing rules (including a discussion of “no loss” rules that apply to marginal costing).

See Temporary Regulations sections 1.925(a)-1T and 1.925(b)-1T for additional information on all pricing methods.

C. Foreign Trading Gross Receipts.—See section 924 and General Instruction C of the Instructions for Form 1120-FSC for definitions of the amounts to be entered on lines 1 and 4 on page 1 of this schedule.

Note: *Do not include on lines 1 and 4: (1) certain “excluded receipts” (defined in section 924(f)); (2) “investment income” (defined in section 927(c)); OR (3) “carrying charges” (defined in section 927(d)(1)).*

Note also: *A FSC (other than a small FSC) is treated as having foreign trading gross receipts for the tax year only if it meets certain foreign management and foreign economic process requirements. See sections 924(b) through (e) and General Instructions C2 through C4 of the Instructions for Form 1120-FSC for definitions.*

D. Related Supplier’s Expenses Allocable to Foreign Trading Gross Receipts.—Be sure to include on line 2b on page 1 of this schedule an appropriate apportionment of deductions that are “not definitely allocable,” such as interest expense and stewardship expenses. See Temporary Regulations sections 1.861-11T(f) and 1.861-14T(f) for details as to the appropriate apportionment.

E. Reporting Amounts on Form 1120-FSC.—If the computed transfer price (line 3, Part II) or the computed FSC commission (line 3, Part III) is entered on more than one line of Form 1120-FSC, attach an explanation indicating the portion of the total that is applied to each line.