



# Internal Revenue Service

DEPARTMENT OF THE TREASURY

## LB&I International Practice Service Transaction Unit

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Volume	6	Inbound Income Shifting	UIL Code	9422
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<b>Unit Name</b>	License of Foreign Owned Intangible Property to U.S. Entity
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## Issue and Transaction Overview

### License of Foreign Owned Intangible Property to U.S. Entity

Many foreign businesses own valuable intangible property (“IP”) which is transferred to their related U.S. entities for exploitation in the U.S. market. Such IP transfers can take several forms (e.g. sale, license, contribution to equity or in conjunction with a Cost Sharing Arrangement (“CSA”)). This practice unit will focus only on the license of IP. Licenses of IP from a foreign entity to a related U.S. entity are subject to transfer pricing rules that require the license to have an arm’s length price.

Using the basic fact pattern of a foreign parent corporation (“FP”) licensing IP to its U.S. subsidiary (“USS”), this unit will consider whether USS paid an arm’s length amount to FP for use of such IP. In general, the licensing of IP is governed by the rules in Treas. Reg. § 1.482-4, which discuss a variety of methods to determine the arm’s length consideration. If the consideration paid by USS to FP for the use of IP is higher than an arm’s length consideration, USS will report less than its true taxable income. In such a case, it is appropriate for the examiner to allocate income between the parties (an increase to USS and a corresponding decrease to FP) under Internal Revenue Code<sup>1</sup> (IRC) § 482 so that both parties clearly reflect their income.


 **CAUTION:** In this fact pattern, there may be collateral adjustment considerations. Please see IPS Process Unit entitled Revenue Procedure 99-32 Inbound Guidance ISI/9422.09\_08(2013).


<sup>1</sup> All references are to the Internal Revenue Code of 1986, as amended, unless otherwise stated.


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## Issue and Transaction Overview (cont'd)

### License of Foreign Owned Intangible Property to U.S. Entity

 **CONSULTATION:** Once the examiner has determined that a license of IP exists (or should exist due to transfer of IP without any legal mechanism), a referral should be made for economic assistance. If there is no licensing agreement in place, please review IPS Unit Distinguishing Between a Sale, License and Other Transfers of IP to CFC's by US Transferors ISO/9411.02\_02 for more guidance. Economic assistance can range from an informal consultation to assignment of an economist to the case

 **TREATY IMPLICATIONS:** If a valuation adjustment is pursued and gives rise to double taxation, the taxpayer may have access to double tax relief under the articles on Associated Enterprises and the Mutual Agreement Procedure ("MAP") of a relevant treaty and the Mutual Agreement Process. Providing the taxpayer information on competent authority (MAP under the relevant treaty) and keeping the statutes in both countries open is MANDATORY (See IRM 4.60.2.1 which mentions Pattern Letter 1853). If competent authority relief is sought by the taxpayer, make sure you consult with the Advance Pricing Mutual Agreement program ("APMA").

 **TREATY IMPLICATIONS:** Tax treaty implications for withholding tax issues might be applicable to payments for the use of IP.

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## Transaction and Fact Pattern

### License of Foreign Owned Intangible Property to U.S. Entity

Diagram of Transaction	Facts
<p>The diagram illustrates the transaction between a Foreign Parent (FP) and its US Subsidiary (USS). FP is represented by a blue box at the top, and USS is represented by a white box at the bottom, connected by a vertical line. A green arrow labeled 'License of IP' points from FP to USS. A green arrow labeled 'License Payment' points from USS to FP.</p>	<ul style="list-style-type: none"> <li>▪ FP is the parent company of a worldwide group that designs, develops, manufactures, sells and distributes products worldwide</li> <li>▪ FP conducts all research and development and owns all intellectual property including patents, trademarks, trade names, trade secrets, etc.</li> <li>▪ USS licenses IP from FP</li> <li>▪ USS manufactures all products</li> <li>▪ USS sells and distributes products into the U.S. market</li> <li>▪ FP sells and distributes products into all non-U.S. markets</li> </ul>

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## Summary of Potential Issues

License of Foreign Owned Intangible Property to U.S. Entity	
<a href="#"><u>Issue 1</u></a>	What IP has been licensed from FP by USS?
<a href="#"><u>Issue 2</u></a>	Did USS pay an arm's length consideration for the license of IP to FP?
<a href="#"><u>Issue 3</u></a>	Was the consideration commensurate with income ("CWI") attributable to the IP?

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## All Issues, Step 1: Initial Factual Development

### License of Foreign Owned Intangible Property to U.S. Entity

Foreign parent companies license IP to US subsidiaries to enable overseas operations for a variety of reasons (access to U.S. markets, and/or location of clients or supply chain). It is important to establish the facts and supporting documentation that substantiates that a license of IP took place.

Fact Element	Resources	6103 Protected Resources
<ul style="list-style-type: none"> <li>▪ Did FP transfer IP under a licensing agreement to its USS?</li> <li>▪ What type of IP rights did FP license to USS?</li> <li>▪ What form of consideration was received by FP? <ul style="list-style-type: none"> <li>– Lump Sum</li> <li>– Contingent Payment</li> <li>– Installment Payment</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Transfer Pricing Documentation</li> <li>▪ Organizational Chart</li> <li>▪ License Agreements</li> <li>▪ Intercompany Agreements</li> <li>▪ Invoices</li> <li>▪ Taxpayer's Financial Statements</li> <li>▪ Transfer Pricing Roadmap</li> <li>▪ Taxpayer's Internet Site</li> <li>▪ Mandatory Transfer Pricing IDR</li> </ul>	
<ul style="list-style-type: none"> <li>▪ Does Form 5472 represent that rents, royalties and license fees were paid by USS?</li> </ul>	<ul style="list-style-type: none"> <li>▪ Form 5472, Part IV</li> </ul>	

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## Issue 1, Step 2: Review Potential Issues

### License of Foreign Owned Intangible Property to U.S. Entity

#### Issue 1

What IP has been licensed from FP by USS?

Explanation of Issue	Resources	6103 Protected Resources
<p>For purposes of IRC 482, an intangible is an asset that comprises any of the following items and has substantial value independent of the services of any individual:</p> <ul style="list-style-type: none"> <li>▪ Patents, inventions, formulae, processes, designs, patterns, or know-how;</li> <li>▪ Copyrights and literary, musical, or artistic compositions;</li> <li>▪ Trademarks, trade names, or brand names;</li> <li>▪ Franchises, licenses, or contracts;</li> <li>▪ Methods, programs, systems, procedures, campaigns, surveys, studies, forecasts, estimates, customer lists, or technical data; and</li> <li>▪ Other similar items. For purposes of section 482, an item is considered similar to those listed above if it derives its value not from its physical attributes but from its intellectual content or other intangible properties.</li> </ul> <p>A controlled transfer of IP means any transaction or transfer of such property between two or more members of the same group of controlled taxpayers. Determine if in fact an intangible as defined in Treas. Reg. 1.482-4(b) has been transferred from FP to USS under a controlled transaction.</p>	<ul style="list-style-type: none"> <li>▪ Treas. Reg. § 1.482-1(i)(7), <i>definition of transaction</i></li> <li>▪ Treas. Reg. § 1.482-1(i)(8), <i>definition of controlled transaction or controlled transfer</i></li> <li>▪ Treas. Reg. § 1.482-4(b), <i>definition of intangible</i></li> </ul>	



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## Issue 1, Step 2: Review Potential Issues (cont'd)

License of Foreign Owned Intangible Property to U.S. Entity		
Issue 1		
What IP has been licensed from FP by USS?		
Explanation of Issue	Resources	6103 Protected Resources
<p>Determine what rights to the IP were transferred? Here are examples of the type of rights that may be transferred under a licensing arrangement.</p> <ul style="list-style-type: none"> <li>▪ Exclusive v. Non-Exclusive</li> <li>▪ Sublicensing Rights</li> <li>▪ Geographic Rights</li> <li>▪ Manufacturing, Marketing, Distribution (Make/Sell)</li> <li>▪ Research Rights</li> <li>▪ Industry by Industry Rights</li> </ul> <p>(The above is not an all inclusive list of rights that can be granted under a licensing arrangement).</p>		

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## Issue 1, Step 3: Additional Factual Development

### License of Foreign Owned Intangible Property to U.S. Entity

#### Issue 1

What IP has been licensed from FP by USS?

Fact Element	Resources	6103 Protected Resources
<ul style="list-style-type: none"> <li>Is there a license of IP between controlled parties?</li> </ul>	<p><b><i>Request and/or review the following:</i></b></p> <ul style="list-style-type: none"> <li>Transfer Pricing Roadmap</li> <li>Transfer Pricing Documentation</li> <li>License Agreement</li> <li>Other Intercompany Agreements</li> <li>Taxpayer's Internet Site</li> </ul>	
<ul style="list-style-type: none"> <li>What type of IP is being licensed?</li> </ul>	<ul style="list-style-type: none"> <li>Transfer Pricing Roadmap</li> <li>Transfer Pricing Documentation</li> <li>License Agreement</li> <li>Other Intercompany Agreements</li> <li>Taxpayer's Internet Site</li> </ul>	
<ul style="list-style-type: none"> <li>Determine what rights to the IP were licensed?</li> </ul>	<ul style="list-style-type: none"> <li>Transfer Pricing Roadmap</li> <li>Transfer Pricing Documentation</li> <li>License Agreement</li> <li>Other Intercompany Agreements</li> </ul>	

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## Issue 1, Step 4: Develop Arguments

### License of Foreign Owned Intangible Property to U.S. Entity

#### Issue 1

What IP has been licensed from FP by USS?

Explanation of Approach	Resources	6103 Protected Resources
<p>The argument for whether IP has been licensed is based on the facts and circumstances of each specific case.</p> <p>The examiner needs to establish that there is a controlled transfer of IP under a licensing arrangement pursuant to Treas. Reg. 1.482-1(i)(7), (i)(8) and 1.482-4(a) and (b). The examiner must determine the type of IP, the rights associated with that IP and if USS paid an amount that satisfies the arm's length standard for the use of such IP.</p> <p>If a transfer of IP has taken place under Treas. Reg. 1.482-7, 1.482-9 or IRC 367, see related IPS Units referenced in the index of other related issues that cover such transfers.</p>	<ul style="list-style-type: none"> <li>▪ Treas. Reg. § 1.482-1(i)(7), <i>definition of transaction</i></li> <li>▪ Treas. Reg. § 1.482-1(i)(8), <i>definition of controlled transaction</i></li> </ul>	


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## Issue 1, Step 4: Develop Arguments (cont'd)

### License of Foreign Owned Intangible Property to U.S. Entity

#### Issue 1

What IP has been licensed from FP by USS?

Explanation of Approach	Resources	6103 Protected Resources
 <p><b>DECISION POINT:</b> Determine whether to proceed with this issue based on the results of the facts gathered (i.e., was there a license of IP that required arm's length consideration to the FP from USS?)</p>	<ul style="list-style-type: none"> <li>▪ Treas. Reg. § 1.482-1(i)(7), <i>definition of transaction</i></li> <li>▪ Treas. Reg. § 1.482-1(i)(8), <i>definition of controlled transaction</i></li> <li>▪ Treas. Reg. § 1.482-4(a), <i>methods for intangible property</i></li> <li>▪ Treas. Reg. § 1.482-4(b), <i>definition of intangible</i></li> </ul>	


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## Issue 2, Step 2: Review Potential Issues

### License of Foreign Owned Intangible Property to U.S. Entity

#### Issue 2

Did USS pay an arm's length consideration for the license of IP to FP?

Explanation of Issue	Resources	6103 Protected Resources
<p>Arm's length consideration in a controlled transfer of IP must be determined under one of four methods listed in Treas. Reg. 1.482-4(a) (<i>i.e.</i>, CUT, CPM, Profit Split, Unspecified Method). Each method must be applied according to the provisions of Treas. Reg. 1.482-1, including the Best Method Rule of Treas. Reg. 1.482-1(c), comparability analysis of Treas. Reg. 1.482-1(d) and the arm's length range of Treas. Reg. 1.482-1(e).</p> <p>If the Taxpayer applies one of the methods in Treas. Reg. 1.482-4(a), and that method achieves the most reliable measure of an arm's length result, it will be considered the best method.</p> <p>If the consideration paid by USS falls within the arm's length range under the best method, no adjustment is necessary.</p> <p> <b>CONSULTATION:</b> You should consult with an economist and/or engineer to determine whether the method applied by the Taxpayer is the best method.</p>	<ul style="list-style-type: none"> <li>▪ Treas. Reg. § 1.482-1(c), <i>Best Method Rule</i></li> <li>▪ Treas. Reg. § 1.482-1(d), <i>comparability</i></li> <li>▪ Treas. Reg. § 1.482-1(e), <i>arm's length range</i></li> <li>▪ Treas. Reg. § 1.482-1(i)(8), <i>controlled transaction</i></li> <li>▪ Treas. Reg. 1.482-4(a), <i>methods for intangible property</i></li> <li>▪ Treas. Reg. 1.482-4(c), <i>CUT method</i></li> <li>▪ Treas. Reg. 1.482-4(d), <i>unspecified methods</i></li> <li>▪ Treas. Reg. § 1.482-5, <i>CPM</i></li> <li>▪ Treas. Reg. § 1.482-6, <i>profit split method</i></li> </ul>	

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## Issue 2, Step 3: Additional Factual Development

### License of Foreign Owned Intangible Property to U.S. Entity

#### Issue 2

Did USS pay an arm's length consideration for the license of IP to FP?

Fact Element	Resources	6103 Protected Resources
<ul style="list-style-type: none"> <li>▪ What was the amount of the consideration paid?</li> <li>▪ What was the form of the consideration? <ul style="list-style-type: none"> <li>– Lump Sum</li> <li>– Installment</li> <li>– Contingent Payment (e.g. Royalty)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Transfer Pricing Documentation</li> <li>▪ License Agreement</li> <li>▪ Form 5472 – Part IV</li> <li>▪ General Ledger</li> <li>▪ Trial Balance</li> <li>▪ Journal Entries</li> </ul>	
<ul style="list-style-type: none"> <li>▪ What method did FP select in determining the arm's length compensation to receive from USS? <ul style="list-style-type: none"> <li>– Comparable Uncontrolled Transaction</li> <li>– Comparable Profits Method</li> <li>– Profit Split</li> <li>– Unspecified Method</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Transfer Pricing Documentation</li> <li>▪ License Agreement</li> <li>▪ Capital IQ – Including Market Studies</li> <li>▪ SIC – NAICS Codes</li> <li>▪ Descriptions and financial statements of comparable transactions</li> <li>▪ Consider use of an Economist</li> </ul>	

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## Issue 2, Step 3: Additional Factual Development (cont'd)

### License of Foreign Owned Intangible Property to U.S. Entity

#### Issue 2

Did USS pay an arm's length consideration for the license of IP to FP?

Fact Element	Resources	6103 Protected Resources
<ul style="list-style-type: none"> <li>▪ What are the functions, risks and assets employed respectively by FP and USS?</li> <li>▪ What is the type of IP? <ul style="list-style-type: none"> <li>– Consider the uniqueness of the IP</li> <li>– Consider the stage of development</li> <li>– Consider any limitations</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Functional Analysis Questionnaire</li> <li>▪ IPS Process Unit Overview ISO/PUO/V_1_04(2014): <i>Comparability Analysis for Tangible Goods Transactions- Outbound.</i></li> <li>▪ Interview Key Employees</li> <li>▪ Transfer Pricing Roadmap</li> <li>▪ Transfer Pricing Documentation</li> <li>▪ Intercompany Agreements</li> <li>▪ License Agreement</li> <li>▪ Annual Reports</li> </ul>	

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## Issue 2, Step 3: Additional Factual Development (cont'd)

### License of Foreign Owned Intangible Property to U.S. Entity

#### Issue 2

Did USS pay an arm's length consideration for the license of IP to FP?

Fact Element	Resources	6103 Protected Resources
<ul style="list-style-type: none"> <li>▪ Was the method selected the best method based on facts and circumstances? <ul style="list-style-type: none"> <li>– Comparability</li> <li>– Completeness and Accuracy of Data</li> <li>– Reliability of Assumptions</li> <li>– Sensitivity of Results</li> </ul> </li> <li>▪ What was the arm's length range under the best method selected? <ul style="list-style-type: none"> <li>– Comparables</li> <li>– Multiple Year Data</li> <li>– Interquartile Range</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Transfer Pricing Roadmap</li> <li>▪ Transfer Pricing Documentation</li> <li>▪ Workpapers with Supporting Computations</li> <li>▪ SIC – NAICS Codes</li> <li>▪ Descriptions and segmented financial statements of comparable transactions</li> <li>▪ Consider use of an Economist</li> <li>▪ Internet Searches on taxpayer and industry – does taxpayer have a competitive advantage?</li> <li>▪ Commercial Databases – <i>e.g.</i>, Capital IQ – Including Market Studies</li> <li>▪ SEC Filings and comments about taxpayer's business segments</li> </ul>	



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## Issue 2, Step 4: Develop Arguments

### License of Foreign Owned Intangible Property to U.S. Entity


#### Issue 2

Did USS pay an arm's length consideration for the license of IP to FP?

Explanation of Approach	Resources	6103 Protected Resources
<p>After establishing that there is a controlled transfer of IP by FP to USS under a licensing arrangement, the examiner must determine whether arm's length consideration was received by FP from USS. Arm's length consideration must be determined under one of four methods listed in Treas. Reg. 1.482-4(a):</p> <ul style="list-style-type: none"> <li>▪ CUT,</li> <li>▪ CPM,</li> <li>▪ Profit Split or</li> <li>▪ Unspecified Method</li> </ul> <p>Each of the methods must be applied in accordance with all the provisions of Treas. Reg. 1.482-1(c), (d) and (e), Treas. Reg. 1.482-4(a),(c) and (d) and Treas. Reg. 1.482-5 and -6. All licensed IP must be identified and valued.</p> <p>Whether the method chosen is the best method must be based on all the relevant facts and circumstances. A functional analysis will assist both in the identification of the licensed IP and selection of the best method.</p>	<ul style="list-style-type: none"> <li>▪ Treas. Reg. § 1.482-1(c), <i>Best Method Rule</i></li> <li>▪ Treas. Reg. § 1.482-1(d), <i>comparability</i></li> <li>▪ Treas. Reg. § 1.482-1(e), <i>arm's length range</i></li> <li>▪ Treas. Reg. § 1.482-1(i)(8), <i>controlled transaction</i></li> <li>▪ Treas. Reg. 1.482-4(a), <i>methods for intangible property</i></li> <li>▪ Treas. Reg. 1.482-4(c), <i>CUT method</i></li> <li>▪ Treas. Reg. 1.482-4(d), <i>unspecified methods</i></li> <li>▪ Treas. Reg. § 1.482-5, <i>CPM</i></li> <li>▪ Treas. Reg. § 1.482-6, <i>profit split methods</i></li> </ul>	

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## Issue 2, Step 4: Develop Arguments (cont'd)

License of Foreign Owned Intangible Property to U.S. Entity		
Issue 2		
Did USS pay an arm's length consideration for the license of IP to FP?		
Explanation of Approach	Resources	6103 Protected Resources
<p>In addition, ensure the taxpayer's selection of comparables are truly comparable to the controlled transaction. Any adjustments that can be made to increase the reliability of the results for the method chosen should be accomplished.</p> <p>If the consideration paid by USS is not within the arm's length range, an adjustment to income is warranted.</p>	<ul style="list-style-type: none"> <li>▪ Treas. Reg. § 1.482-1(d), <i>comparability</i></li> <li>▪ Treas. Reg. § 1.482-1(e), <i>arm's length range</i></li> </ul>	
 <b>CONSULTATION:</b> If you have an economist or engineer assigned to your case, make sure you incorporate their reports into the Facts, Law and Analysis sections of your NOPA.		

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## Issue 3, Step 2: Review Potential Issues

### License of Foreign Owned Intangible Property to U.S. Entity

#### Issue 3

Was the consideration commensurate with income (CWI) attributable to the IP?

Explanation of Issue	Resources	6103 Protected Resources
<p>The consideration for the transfer of IP from FP to USS must be commensurate with the income (CWI) attributable to the IP. If you believe a CWI adjustment may be applicable, please see IPS Concept Unit (CU) entitled Commensurate with Income Standard ISO/CU/V_1_04 (2014) (in process). If CWI adjustments are made, they must be made consistent with the arm's length standard and Treas. Reg. 1.482-1.</p> <p>Generally, if the licensing arrangement between FP and USS covers more than one year, it may be possible to make an adjustment to the compensation charged in each taxable year to ensure that it is commensurate with the income being generated from the use of the IP by the USS. Such adjustment may be possible if all of the requirements for applying CWI are met and the taxpayer does not qualify for one of the exceptions under Treas. Reg. 1.482-4(f)(2)(ii).</p>	<ul style="list-style-type: none"> <li>▪ Treas. Reg. § 1.482-1, <i>allocation of income and deductions among taxpayers</i></li> <li>▪ Treas. Reg. 1.482-4(a), <i>methods for intangible property</i></li> <li>▪ Treas. Reg. 1.482-4(f)(2), <i>periodic adjustments</i></li> <li>▪ GLAM 2007-007 (3/15/2007) – General Legal Advice Memorandum on CWI</li> <li>▪ IPS ISO/CU/V_1_04(2014): <i>Commensurate with Income Standard</i> (currently in process).</li> </ul>	



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## Issue 3, Step 2: Review Potential Issues (cont'd)

### License of Foreign Owned Intangible Property to U.S. Entity



#### Issue 3

Was the consideration commensurate with income (CWI) attributable to the IP?

Explanation of Issue	Resources	6103 Protected Resources
<p>The questions that need to be answered by the examiner when considering CWI:</p> <ol style="list-style-type: none"> <li>Does the license arrangement cover more than one year requiring USS to make periodic payments to FP?</li> <li>Does the taxpayer meet any of the exceptions to application of CWI?</li> </ol> <p>If the answer to question 1 is yes and the answer to question 2 is no, then it may be possible to make a CWI adjustment.</p>	<ul style="list-style-type: none"> <li>Transfer Pricing Documentation</li> <li>Contracts</li> <li>Intercompany Agreements</li> <li>Annual Report</li> <li>Transfer Pricing Roadmap</li> </ul>	
<p> <b>CONSULTATION:</b> Consult an economist, TPP and/or the IPN to determine if CWI applies.</p> <p> <b>CAUTION:</b> CWI can only be invoked by the Service.</p>	<ul style="list-style-type: none"> <li>IPS Unit ISI/9422._09_03(2013): <i>Taxpayer's Affirmative Use of IRC 482.</i></li> </ul>	

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## Issue 3, Step 3: Additional Factual Development

License of Foreign Owned Intangible Property to U.S. Entity		
Issue 3		
Was the consideration commensurate with income (CWI) attributable to the IP?		
Fact Element	Resources	6103 Protected Resources
<p>Do any of the 4 exceptions to CWI apply?</p> <ul style="list-style-type: none"> <li>▪ CUT involving the same intangible</li> <li>▪ CUT involving comparable intangible</li> <li>▪ Methods other than CUT</li> <li>▪ Extraordinary events</li> </ul> <p> <b>CAUTION:</b> If you believe a CWI adjustment may be applicable, please see IPS ISO/CU/V_1_04 (2014) entitled “Commensurate with Income Standard” (in process).</p>	<ul style="list-style-type: none"> <li>▪ Transfer Pricing Documentation</li> <li>▪ Written Contract</li> <li>▪ Treas. Reg. 1.482-4(f)(2)(ii)(A), (B), (C), (D) and (E), <i>exceptions</i></li> <li>▪ Functional Analysis</li> <li>▪ Forecasts</li> <li>▪ License Agreement</li> <li>▪ IPS ISO/CU/V_1_04(2014): <i>Commensurate with Income Standard</i> (in process).</li> </ul>	
<p> <b>CONSULTATION:</b> Exam and Field Counsel should consult with ACC(INTL) Branch 6 for advice on making a CWI adjustment.</p>		

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## Issue 3, Step 4: Develop Arguments

### License of Foreign Owned Intangible Property to U.S. Entity

#### Issue 3

Was the consideration commensurate with income (CWI) attributable to the IP?

Explanation of Approach	Resources	6103 Protected Resources
<p>Determining whether to make a CWI adjustment requires a robust development of the facts and circumstances. You must confer with ACCI regarding the merits of the proposed CWI adjustment.</p> <p>The consideration charged by FP to USS in each taxable year might be adjusted to ensure it is commensurate with the income attributable to such IP under Treas. Reg. 1.482-4(f)(2) if all of the requirements for applying the CWI principle have been met and the taxpayer does not qualify for any exceptions to the CWI principle under Treas. Reg. 1.482-4(f)(2)(ii).</p> <p>A periodic adjustment may be made in a subsequent taxable year without regard to whether the taxable year of the original transfer remains open for statute of limitations purposes.</p>	<ul style="list-style-type: none"> <li>▪ Treas. Reg. 1.482-4(a), <i>allocation of income and deductions among taxpayers</i></li> <li>▪ Treas. Reg. 1.482-4(f)(2), <i>periodic adjustments</i></li> </ul>	

Volume	Part	Chapter	Sub-Chapter
Inbound Income Shifting	Intangible Property Transfers w/o Cost Sharing	License or Sale	N/A

## Training and Additional Resources

### Chapter 6.4.1 License or Sale

Type of Resource	Description(s) and/or Instructions for Accessing	References
CENTRA sessions	<ul style="list-style-type: none"> <li>▪ FY2012 Transfer Pricing Introduction to 482.</li> <li>▪ FY2013 IRC 482 Overview.</li> <li>▪ FY2012 Services – High Value.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Transfer Pricing Introduction to 482 (QRP785958)</li> <li>▪ IBC IRC 482 OVERVIEW 50767 (HLL028040)</li> <li>▪ IBC Services - High Value 44759 (HVH248923)</li> </ul>
Issue Toolkits	<ul style="list-style-type: none"> <li>▪ IRM 4.61.3-4 Functional Analysis Questionnaire</li> <li>▪ Transfer Pricing Checklist</li> <li>▪ IRM 4.61.3 Development of IRC 482 Cases</li> </ul>	
White Papers / Guidance	<ul style="list-style-type: none"> <li>▪ AM 2007-007 (3/15/2007) – General Legal Advice Memorandum on CWI.</li> </ul>	
Podcasts / Videos	<ul style="list-style-type: none"> <li>▪ 2011 International CPE (IBC) - <i>IP Migration, Economic Analysis, Risk and Comparability, and Audit Techniques.</i></li> </ul>	

Volume	Part	Chapter	Sub-Chapter
Inbound Income Shifting	Intangible Property Transfers w/o Cost Sharing	License or Sale	N/A

## Training and Additional Resources (cont'd)

### Chapter 6.4.1 License or Sale

Type of Resource	Description(s) and/or Instructions for Accessing	References
Other Training Materials	<ul style="list-style-type: none"> <li>▪ International Examiner Phase III Training, Module E-1, Overview of IRC 482</li> <li>▪ Economist Phase V Training – Legal Matters</li> <li>▪ OECD Transfer Pricing Guidelines</li> <li>▪ Transfer Pricing Audit Roadmap</li> <li>▪ Mandatory Transfer Pricing IDR</li> <li>▪ Bittker and Lokken Chapter 79: Reallocation of Income and Deductions</li> </ul>	



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## Glossary of Terms and Acronyms

Acronym	Definition
APMA	Advanced Pricing Mutual Agreement
CFC	Controlled Foreign Corporation
CPE	Certified Professional Education
CPM	Comparable Profits Method
CUT	Comparable Uncontrolled Transaction Method
CSA	Cost Sharing Arrangement
CWI	Commensurate With Income
EOI	Exchange of Information
FP	Foreign Parent
IP	Intangible Property
IPN	International Practice Network
IPS	International Practice Service
IRC	Internal Revenue Code

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## Glossary of Terms and Acronyms (cont'd)

Acronym	Definition
IRM	Internal Revenue Manual
ISI	Income Shifting Inbound
ISO	Income Shifting Outbound
MAP	Mutual Agreement Procedure
NAIC	North American Industrial Classification
NOPA	Notice of Proposed Adjustment (Form 5701)
OECD	Organisation for Economic Co-operation and Development
RAR	Revenue Agent Report
SEC	Securities and Exchange Commission
SIC	Standard Industrial Classification
UIL	Uniform Issue Listing
USS	United States Subsidiary

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## Index of Related Issues

Issue	Associated UIL(s)	References
Deemed Royalty Income	9411.02	IPS Unit: Deemed Annual Royalty Income Under IRC 367 (d) ISO/9411.02_01(2013)
Distinguishing between a sale, license and other transfers of intangibles	9411.02	IPS Unit: Distinguishing between a sale, license and other transfers of IP to CFC's by US transferors ISO/9411.02_02 (2013)
IRC 482	9411.07	IPS Unit: Overview of IRC 482 ISO/9411.07_01(2013)
Commensurate With Income Standard	9411 and 9422	IPS CU: Commensurate With Income Standard ISO/CU/V_1_04(2014) (in process)
Functional Analysis	9422.07	IPS PUO: Comparability Analysis for Tangible Goods Transactions- Outbound ISO/PUO/V_1_04(2014)
Comparable Profits Method (CPM)	9422.07	IPS Unit: CPM for a Simple Inbound Distributor ISI/9422.07_07(2013)
Transfer Pricing Documentation	9422.09	IPS PUO: Review of Transfer Pricing Documentation and Applicable Penalties ISI/PUO/V_6_09_03(2014).
Requirements of IRC 482	9422.09	IPS Unit: Three Requirements of IRC 482 ISI/9422.09_02(2013)
Best Method	9422.09	IPS Unit: Best Method Determination of an Inbound Distributor ISI/9422.09_04(2013)

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## Index of Related Issues (cont'd)

Issue	Associated UIL(s)	References
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Taxpayer's Use of IRC 482	9422.09	IPS Unit: Taxpayer's Affirmative Use of IRC 482 ISI/9422.09_03(2013)
MAP Procedural Issues	9450.12	IPS Unit Coming Soon
Determination of Appropriate Treaty Rates of Withholding	9450.07	IPS Unit Coming Soon
Automatic Exchange of Information	9450.13	IPS Unit Coming Soon
Treaty-based EOI	9460.01	IPS Unit Coming Soon
Penalties-Substantial	9560.11	IPS Unit Coming Soon
Penalties-Gross	9560.12	IPS Unit Coming Soon