

Internal Revenue Service, Treasury

§ 1.925(a)-1T

group during the taxable year if it performs the activity in accordance with the following rules. If a FSC elects to factor trade receivables, at least 20 percent of the face amount of a group's receivables must be factored. If a FSC elects to sell by means of letters of credit or banker's acceptances, a fee must be incurred with respect to 20 percent of the foreign trading gross receipts attributable to sales within the group. If the FSC elects to obtain insurance to cover nonpayment, 20 percent of the face amount of receivables attributable to sales included in the §1.924(d)-1(e) grouping elected by the FSC must be insured. If a FSC elects to investigate credit of customers or potential customers, 20 percent of new or potential customers for which a credit investigation is performed must be investigated.

[T.D. 8125, 52 FR 5094, Feb. 19, 1987]

§ 1.925(a)-1 Transfer pricing rules for FSCs.

(a) through (c)(7) [Reserved] For further guidance, see § 1.925(a)-1T(a) through (c)(7).

(c)(8) *Grouping transactions.* (i) The determinations under this section are to be made on a transaction-by-transaction basis. However, at the annual choice made by the related supplier if the administrative pricing methods are used, some or all of these determinations may be made on the basis of groups consisting of products or product lines. The election to group transactions shall be evidenced on Schedule P of the FSC's U.S. income tax return for the taxable year. No untimely or amended returns filed later than one year after the due date of the FSC's timely filed (including extensions) U.S. income tax return will be allowed to elect to group, to change a grouping basis, or to change from a grouping basis to a transaction-by-transaction basis (collectively "grouping redeterminations"). The rule of the previous sentence is applicable to taxable years beginning after December 31, 1999. For any taxable year beginning before January 1, 2000, a grouping redetermination may be made no later than the due date of the FSC's timely filed (including extensions) U.S. income tax return for the FSC's first taxable year begin-

ning on or after January 1, 2000. Notwithstanding the time limits for filing grouping redeterminations otherwise specified in the previous three sentences, a grouping redetermination may be made at any time during the one-year period commencing upon notification of the related supplier by the Internal Revenue Service of an examination, provided that both the FSC and the related supplier agree to extend their respective statutes of limitations for assessment by one year. In addition, any grouping redeterminations made under this paragraph must meet the requirements under § 1.925(a)-1T(e)(4) with respect to redeterminations other than grouping. The language "or grouping of transactions" is removed from the fourth sentence of § 1.925(a)-1T(e)(4), applicable to taxable years beginning after December 31, 1997. See also § 1.925(b)-1T(b)(3)(i).

(c)(8)(ii) through (f) [Reserved] For further guidance, see § 1.925(a)-1T(c)(8)(ii) through (f).

(g) *Effective date.* The provisions of this section apply on or after March 2, 2001.

[T.D. 8944, 66 FR 13428, Mar. 6, 2001]

§ 1.925(a)-1T Temporary regulations; transfer pricing rules for FSCs.

(a) *Scope*—(1) *Transfer pricing rules.* In the case of a transaction described in paragraph (b) of this section, section 925 permits a related party to a FSC to determine the allowable transfer price charged the FSC (or commission paid to the FSC) by its choice of the three transfer pricing methods described in paragraphs (c)(2), (3), and (4) of this section: The "1.83 percent" gross receipts method and the "23 percent" combined taxable income method (the administrative pricing rules) of section 925(a)(1) and (2), respectively, and the section 482 method of section 925(a)(3). (Any further reference to a FSC in this section shall include a small FSC unless indicated otherwise.) Subject to the special no-loss rule of § 1.925(a)-1T(e)(1)(iii), any, or all, of the transfer pricing methods may be used in the same taxable year of the FSC for separate transactions (or separate groups of