§ 1.992-4 Coordination with personal holding company provisions in case of certain produced film rents.

(a) In general. Section 992(d)(2) provides that a personal holding company is not eligible to be treated as a DISC. Section 543(a)(5)(B) provides that, for purposes of section 543, the term “produced film rents” means payments received with respect to an interest in a film for the use of, or the right to use, such film, but only to the extent that such interest was acquired before substantial completion of production of such film. Under section 992(e), if such produced film rents are included in the ordinary gross income (as defined in section 543(b)(1)) of a qualified subsidiary for a taxable year of such subsidiary, and such interest was acquired by such subsidiary from its parent, such interest is deemed (for purposes of the application of sections 541, 543(b)(1), and 992(d)(2), and §1.992-1(f) for such taxable year) to have been acquired by such subsidiary at the time

(b) Example. X corporation, which uses the calendar year as its taxable year, meets the 95 percent assets test but fails to meet the 95 percent of gross receipts test. X makes the required deficiency distribution, in the amount of $10,000, on April 1, 1976. X must pay on or before April 30, 1976, to the service center with which it files its annual information return for its taxable year in the 30-day period beginning with the day on which the distribution is made, to the service center with which the corporation files its annual information return for its taxable year in which the distribution is made. For purposes of the Internal Revenue Code, such charge is considered interest.

(1) The provisions of subdivision (i) of this subparagraph may be illustrated by the following example:

Example. X corporation, which uses the calendar year as its taxable year, meets the 95 percent assets test but fails to meet the 95 percent of gross receipts test. X makes the required deficiency distribution, in the amount of $10,000, on April 1, 1976. X must pay on or before April 30, 1976, to the service center with which it files its annual information return for its taxable year in the 30-day period beginning with the day on which the distribution is made. Such charge must be paid, with which it files its annual information return for its taxable year in the 30-day period beginning with the day on which the distribution is made.

(2) The sum of the adjusted bases of the qualified export assets held by such corporation on each such day.

Example. X corporation, which uses the calendar year as its taxable year, meets the 95 percent assets test but fails to meet the 95 percent of gross receipts test. X makes the required deficiency distribution, in the amount of $10,000, on April 1, 1976. X must pay on or before April 30, 1976, to the service center with which it files its annual information return for its taxable year in the 30-day period beginning with the day on which the distribution is made. Such charge must be paid, with which it files its annual information return for its taxable year in the 30-day period beginning with the day on which the distribution is made.

(3) The corporation files its annual information return for its taxable year in the 30-day period beginning with the day on which the distribution is made. Such charge must be paid, with which it files its annual information return for its taxable year in the 30-day period beginning with the day on which the distribution is made.

(4) The provisions of subdivision (i) of this subparagraph may be illustrated by the following example:

Example. X corporation, which uses the calendar year as its taxable year, meets the 95 percent assets test but fails to meet the 95 percent of gross receipts test. X makes the required deficiency distribution, in the amount of $10,000, on April 1, 1976. X must pay on or before April 30, 1976, to the service center with which it files its annual information return for its taxable year in the 30-day period beginning with the day on which the distribution is made. Such charge must be paid, with which it files its annual information return for its taxable year in the 30-day period beginning with the day on which the distribution is made.
such interest was acquired by such parent. Thus, for example, if a parent acquires an interest in a film before it is substantially completed, then substantially completes such film prior to transferring an interest in such motion picture to a qualified subsidiary, the qualified subsidiary is considered as having acquired such interest prior to substantial completion of such motion picture for purposes of determining whether payments from the rental of such motion picture will be classified as produced film rents of such subsidiary. The provisions of section 992(e) and this section are not applicable in determining whether payments received with respect to such interest were included in the ordinary gross income of such parent or a qualified subsidiary. Thus, even though a qualified subsidiary is treated pursuant to this section as having acquired an interest in a film at the time such interest was acquired by such subsidiary’s parent, payments received by such parent with respect to such interest prior to the transfer of such interest to such subsidiary are includible in the ordinary gross income of such parent and not includible in the ordinary gross income of such subsidiary.

(b) Definitions—(1) Qualified subsidiary. For purposes of this section, a corporation is a qualified subsidiary for a taxable year if—
(i) Such corporation was established for the purpose of becoming a DISC,
(ii) Such corporation would qualify (or be treated) as a DISC for such taxable year if it is not a personal holding company, and
(iii) On every day of such taxable year on which shares of such corporation are outstanding, at least 80 percent of such shares are held directly by a second corporation.

(2) Parent. For purposes of this section, the term “parent” means a second corporation referred to in subparagraph (1)(iii) of this paragraph.

[T.D. 7823, 39 FR 34409, Sept. 25, 1974]

§ 1.993–1 Definition of qualified export receipts.

(a) In general. For a corporation to qualify as a DISC, at least 95 percent of its gross receipts for a taxable year must consist of qualified export receipts. Under section 993(a), the term “qualified export receipts” means any of the eight amounts described in paragraphs (b) through (i) of this section, except to the extent that any of the eight amounts is an excluded receipt within the meaning of paragraph (j) of this section. For purposes of this section and §§1.993–2 through 1.993–6—

(1) DISC. All references to a DISC mean a DISC, except when the context indicates that such term means a corporation in the process of meeting the conditions necessary for that corporation to become a DISC, or a corporation being tested as to whether it qualifies as a DISC.

(2) Sale, lease, and license. The term “sale” includes an exchange or other disposition and the term “lease” includes a rental or a sublease. The term “license” includes a sublicense. All rules under this section and §§1.993–2 through 1.993–6 applicable to leases of export property apply in the same manner to licenses of export property. See §1.993–3(f)(3) for a description of intangible property which cannot be export property.

(3) Gross receipts. The term “gross receipts” is defined by section 993(f) and §1.993–6.

(4) Qualified export assets. The term “qualified export assets” is defined by section 993(b) and §1.993–2.

(5) Export property. The term “export property” is defined by section 993(c) and §1.993–3.

(6) Related person. The term “related person” means a person who is related to another person if either immediately before or after a transaction—

(i) The relationship between such persons would result in a disallowance of losses under section 267 (relating to disallowance of losses, etc., between related taxpayers), or section 707(b) (relating to losses disallowed, etc., between partners and controlled partnerships), and the regulations thereunder, or

(ii) Such persons are members of the same controlled group of corporations, as defined in section 1563(a) (relating to definition of controlled group of corporations), except that (a) “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in section 1563(a) and the regulations...