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(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. 7323, 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 thereunder, and (*b*) the provisions of section 1563(b) shall not apply in determining whether such persons are members of the same controlled group.

(7) *Related supplier*. The term ''related supplier'' is defined by § 1.994–1(a)(3)(ii).

(8) *Controlled group*. The term ''controlled group'' is defined by paragraph (k) of this section.

(b) *Sales of export property*. Qualified export receipts of a DISC include gross receipts from the sale of export property by such DISC, or by any principal for whom such DISC acts as a commission agent (whether or not such principal is a related supplier), pursuant to the terms of a contract entered into with a purchaser by such DISC or by such principal at any time or by any other person and assigned to such DISC or such principal at any time prior to the shipment of such property to the purchaser. Any agreement, oral or written, which constitutes a contract at law, satisfies the contractual requirement of this paragraph. Gross receipts from the sale of export property, whenever received, do not constitute qualified export receipts unless the seller (or the corporation acting as commission agent for the seller) is a DISC at the time of the shipment of such property to the purchaser. For example, if a corporation which sells export property under the installment method is not a DISC for the taxable year in which the property is shipped to the purchaser, gross receipts from such sale do not constitute qualified export receipts for any taxable year of the corporation.

(c) *Leases of export property*—(1) *In general*. Qualified export receipts of a DISC include gross receipts from the lease of export property provided that—

(i) Such property is held by such DISC (or by a principal for whom such DISC acts as commission agent with respect to the lease) either as an owner or lessee at the beginning of the term of such lease, and

(ii) Such DISC qualified (or was treated) as a DISC for its taxable year in which the term of such lease began.

(2) *Prepayment of lease receipts.* If part or all of the gross receipts from a lease of property are prepaid, then—

(i) All such prepaid gross receipts are qualified export receipts of a DISC if it is reasonably expected at the time of such prepayment that throughout the term of such lease they would be qualified export receipts if received not as a prepayment; or

(ii) If it is reasonably expected at the time of such prepayment that throughout the term of such lease they would not be qualified export receipts if received not as a prepayment, then only those prepaid receipts, for the taxable years of the DISC for which they would be qualified export receipts, are qualified export receipts.

Thus, for example, if a lessee makes a prepayment of the first and last years' rent, and it is reasonably expected that the leased property will be export property for the first half of the lease period but not the second half of such period, the amount of the prepayment which represents the first year's rent will be considered qualified export receipts if it would otherwise qualify, whereas the amount of the prepayment which represents the last year's rent will not be considered qualified export receipts.

(d) *Related and subsidiary services*—(1) *In general.* Qualified export receipts of a DISC include gross receipts from services furnished by such DISC which are related and subsidiary to any sale or lease (as described in paragraph (b) or (c) of this section) of export property by such DISC or with respect to which such DISC acts as a commission agent, provided that such DISC derives qualified export receipts from such sale or lease. Such services may be performed within or without the United States.

(2) *Services furnished by DISC.* Services are considered to be furnished by a DISC for purposes of this paragraph if such services are provided by—

(i) The person who sold or lease the export property to which such services are related and subsidiary, provided that the DISC acts as a commission agent with respect to the sale or lease of such property and with respect to such services,

(ii) The DISC as principal, or any other person pursuant to a contract between such person and such DISC, provided the DISC acted as principal or commission agent with respect to the sale or lease of such property, or

(iii) A member of the same controlled group as the DISC where the sale or lease of the export property is made by another member of such controlled group provided, however, that the DISC act as principal or commission agent with respect to such sale or lease and as commission agent with respect to such services.

(3) *Related services.* A service is related to a sale or lease of export property if—

(i) Such service is of the type customarily and usually furnished with the type of transaction in the trade or business in which such sale or lease arose and

(ii) The contract to furnish such service—

(*a*) Is expressly provided for in or is provided for by implied warranty under the contract of sale or lease,

(*b*) Is entered into on or before the date which is 2 years after the date on which the contract under which such sale or lease was entered into, provided that the person described in subparagraph (2) of this paragraph which is to furnish such service delivers to the purchaser or lessor a written offer or option to furnish such services on or before the date on which the first shipment of goods with respect to which the service is to be performed is delivered, or

(*c*) Is a renewal of the services contract described in (*a*) or (*b*) of this subdivision. Services which may be related to a sale or lease of export property include but are not limited to warranty service, maintenance service, repair service, and installation service. Transportation (including insurance related to such transportation) may be related

to a sale or lease of export property, provided that the cost of such transportation is included in the sale price or rental of the property or, if such cost is separately stated, is paid by the DISC (or its principal) which sold or leased the property to the person furnishing the transportation service. Financing or the obtaining of financing for a sale or lease is not a related service for purposes of this paragraph.

(4) *Subsidiary services*—(i) *In general.* Services related to a sale or lease of export property are subsidiary to such sale or lease only if it is reasonably expected at the time of such sale or lease that the gross receipts from all related services furnished by the DISC (as defined in subparagraphs (2) and (3) of this paragraph) will not exceed 50 percent of the sum of (a) the gross receipts from such sale or lease and (b) the gross receipts from related services furnished by the DISC (as described in subparagraph (2) of this paragraph). In the case of a sale, reasonable expectations at the time of the sale are based on the gross receipts from all related services which may reasonably be expected to be performed at any time before the end of the 10-year period following the date of such-sale. In the case of a lease, reasonable expectations at the time of the lease are based on the gross receipts from all related services which may reasonably be expected to be performed at any time before the end of the term of such lease (determined without regard to renewal options).

(ii) *Allocation of gross receipts from services.* In determining whether the services related to a sale or lease of export property are subsidiary to such sale or lease, the gross receipts to be treated as derived from the furnishing of services may not be less than the amount of gross receipts reasonably allocated to such services as determined under the facts and circumstances of each case without regard to whether—

(*a*) Such services are furnished under a separate contract or under the same contract pursuant to which such sale or lease occurs or

(*b*) The cost of such services is specified in the contract of sale or lease.

(iii) *Transactions involving more than one item of export property.* If more than one item of export property is sold or leased in a single transaction pursuant to one contract, the total gross receipts from such transaction and the total gross receipts from all services related to such transaction are each taken into account in determining whether such services are subsidiary to such transaction. However, the provisions of this subdivision apply only if such items could be included in the same product line, as determined under §1.994–1(c)(7).

(iv) *Renewed service contracts.* If under the terms of a contract for related services, such contract is renewable within 10 years after a sale of export property, or during the term of a lease of export property, related services to be performed under the renewed contract are subsidiary to such sale or lease if it is reasonably expected at the time of such renewal that the gross receipts from all related services which have been and which are to be furnished by the DISC (as described in subparagraph (2) of this paragraph) will not exceed 50 percent of the sum of (*a*) the gross receipts from such sale or lease and (*b*) the gross receipts from related services furnished by the DISC (as so described). Reasonable expectations are determined as provided in subdivision (i) of this subparagraph.

(v) *Parts used in services.* In a services contract described in subparagraph (3) of this paragraph provides for the furnishing of parts in connection with the furnishing of related services, gross receipts from the furnishing of such parts are not taken into account in determining whether under this subparagraph the services are subsidiary. See paragraph (b) or (c) of this section to determine whether the gross receipts from the furnishing of parts consitute qualified export receipts. See §1.993–3(c)(2)(iv) and (e)(3) for rules regarding the treatment of such parts with respect to the manufacture of export property and the foreign content of such property, respectively.

(5) *Relation to leases.* If the gross receipts for services which are related and subsidiary to a lease of property have been prepaid at any time for all such services which are to be performed before the end of the term of such lease, then as of the time of the

prepayment the rules in paragraph (c)(2) of this section (relating to prepayment of lease receipts) will determine whether prepaid services under this subdivision are qualified export receipts. Thus, for example if it is reasonably expected that leased property will be export property for the first year of the term of the lease but will not be export property for the second year of the term, prepaid gross receipts for related and subsidiary services to be furnished in the first year may be qualified export receipts. However, any prepaid gross receipts for such services to be furnished in the second year cannot be qualified export receipts.

(6) *Relation with export property determination.* The determination as to whether gross receipts from the sale or lease of export property constitute qualified export receipts does not depend upon whether services connected with such sale or lease are related and subsidiary to such sale or lease. Thus, for example, assume that a DISC receives gross receipts of $1,000 from the sale of export property and gross, receipts of $1,100 from installation and maintenance services which are to be furnished by such DISC within 10 years after the sale and which are related to such sale. The $1,100 which the DISC receives for such services would not be qualified export receipts since the gross receipts from the services exceed 50 percent of the sum of the gross receipts from the sale and the gross receipts from the related services furnished by such DISC. The $1,000 which the DISC receives from the sale of export property would, however, be a qualified export receipt if the sale met the requirements of paragraph (b) of this section.

(e) *Gains from sales of certain qualified export assets.* Qualified export receipts of a DISC include gross receipts from the sale by such DISC of any assets (wherever located) which, as of the date of such sale, are qualified export assets as defined in §1.993–2 even though such assets are not export property (as defined in §1.993–3). Gross receipts are derived from the sale of such assets only where such sale results in recognized gain (see §1.993–6(a)). For purposes of this paragraph, losses from the sale of such qualified export assets shall not be taken into account for purposes of determining the DISC's qualified export receipts.

(f) *Dividends.* Qualified export receipts of a DISC for a taxable year include all dividends includible in the gross income of such DISC for such taxable year with respect to the stock of related foreign export corporations (as defined in §1.993–5) and all amounts includible in the gross income of such DISC with respect to such corporations pursuant to section 951 (relating to amounts included in the gross income of U.S. shareholders of controlled foreign corporations).

(g) *Interest on obligations which are qualified export assets.* Qualified export receipts of a DISC include interest on any obligation which is a qualified export asset of such DISC, including any amount includible in gross income as interest (such as, for example, an amount treated as original issue discount pursuant to section 1232) or as imputed interest under section 483. Gain from the sale of obligations described in this paragraph is treated (to the extent such gain is not treated as interest on such obligations) as qualified export receipts pursuant to paragraph (e) of this section.

(h) *Engineering and architectural services*—(1) *In general.* Qualified export receipts of a DISC include gross receipts from engineering services (as described in subparagraph (5) of this paragraph) or architectural services (as described in subparagraph (5) of this paragraph) or architectural services (as described in subparagraph (6) of this paragraph) furnished by such DISC (as described in subparagraph (7) of this paragraph) for a construction project (as defined in subparagraph (8) of this paragraph) located, or proposed for location, outside the United States. Such services may be performed within or without the United States.

(2) *Services included.* Engineering and architectural services include feasibility studies for a proposed construction project whether or not such project is ultimately initiated.

(3) *Excluded services.* Engineering and architectural services do not include—

(i) Services connected with the exploration for minerals or

(ii) Technical assistance or knowhow.

For purposes of this paragraph, the term ''technical assistance or know-how'' includes activities or programs designed to enable business, commerce, industrial establishments, and governmental organizations to acquire or use scientific, architectural, or engineering information.

(4) *Other services.* Receipts from the performance of construction activities other than engineering and architectural services constitute qualified export receipts to the extent that such activities are related and subsidiary services (within the meaning of paragraph (d) of this section) with respect to a sale or lease of export property.

(5) *Engineering services.* For purposes of this paragraph, engineering services in connection with any construction project (within the meaning of subparagraph (8) of this paragraph) include any professional services requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical, or engineering sciences to such professional services as consultation, investigation, evaluation, planning, design, or responsible supervision of construction for the purpose of assuring compliance with plans, specifications, and design.

(6) *Architectural services.* For purposes of this paragraph, architectural services include the offering or furnishing of any professional services such as consultation, planning, aesthetic, and structural design, drawings and specifications, or responsible supervision of construction (for the purpose of assuring compliance with plans, specifications, and design) or erection, in connection with any construction project (within the meaning of subparagraph (8) of this paragraph).

(7) *Definition of ''furnished by such DISC''.* For purposes of this paragraph, architectural and engineering services are considered furnished by a DISC if such services are provided—

(i) By the DISC,

(ii) By another person (whether or not a United States person) pursuant to a contract entered into by such person with the DISC at any time prior to the furnishing of such services, provided that the DISC acts as principal with respect to the furnishing of such services, or

(iii) By another person (whether or not a United States person) pursuant to a contract for the furnishing of such services entered into at any time prior to the furnishing of such services provided that the DISC acts as commission agent with respect to such services.

(8) *Definition of ''construction project''.* For purposes of this paragraph, the term ''construction project'' includes the erection, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities including, for example, roads, dams, canals, bridges, tunnels, railroad, tracks, and pipelines. The term also includes site grading and improvement and installation of equipment necessary for the construction. Gross receipts from the sale or lease of construction equipment are not qualified export receipts unless such equipment is export property (as defined in §1.993–3).

(i) *Managerial services*—(1) *In general.* Qualified export receipts of a first DISC for its taxable year include gross receipts from the furnishing of managerial services provided for another DISC, which is not a related person, to aid such unrelated DISC in deriving qualified export receipts, provided that at least 50 percent of the gross receipts of the first DISC for such year consists of qualified export receipts derived from the sale or lease of export property and the furnishing of related and subsidiary services, as described in paragraph (b), (c), and (d) of this section, respectively.

For purposes of this paragraph, managerial services are considered furnished by a DISC if such services are provided—

(i) By the first DISC,

(ii) By another person (whether or not a United States person) pursuant to a contract entered into by such person with the first DISC at any time prior to the furnishing of such services, provided that the first DISC acts as principal with respect to the furnishing of such services, or

(iii) By another person (whether or not a United States person) pursuant to a contract for the furnishing of such

services entered into at any time prior to the furnishing of such services provided that the DISC acts as commission agent with respect to such services.

(2) *Definition of ''managerial services.''* The term ''managerial services'' as used in this paragraph means activities relating to the operation of another unrelated DISC which derives qualified export receipts from the sale or lease of export property and from the furnishing of services related and subsidiary to such sales or leases. Such term includes staffing and operational services necessary to operate such other DISC, but does not include legal, accounting, scientific, or technical services. Examples of managerial services are: (i) Export market studies, (ii) making shipping arrangements, and (iii) contracting potential foreign purchasers.

(3) *Status of recipient of managerial services*—(i) *In general.* Qualified export receipts of a first DISC include receipts from the furnishing of managerial services during any taxable year of a recipient if such recipient qualifies as a DISC (within the meaning of §1.992–1(a) for such taxable year.

(ii) *Recipient deemed to qualify as a DISC.* For purposes of subdivision (i) of this subparagraph, a recipient is deemed to qualify as a DISC for its taxable year if the first DISC obtains from such recipient a copy of such recipient's election to be treated as a DISC as described in §1.992–2(a) together with such recipient's sworn statement that such election has been filed with the Internal Revenue Service Center. The recipient may mark out the names of its shareholders on a copy of its election to be treated as a DISC before submitting it to the first DISC. The copy of the election and the sworn statement of such recipient must be received by the first DISC within 6 months after the beginning of the first taxable year of the recipient during which such first DISC furnishes managerial services for such recipient. The copy of the election and the sworn statement of the recipient need not be obtained by the first DISC for subsequent taxable years of the recipient.

(iii) *Recipient not treated as a DISC.* For purposes of subdivision (i) of this subparagraph, a recipient of managerial services is not treated as a DISC with respect to such services performed during a taxable year for which such recipient does not qualify as a DISC if the DISC performing such services does not believe or if a reasonable person would not believe (taking into account the furnishing DISC's managerial relationship with such recipient DISC) at the beginning of such taxable year that the recipient will qualify as a DISC for such taxable year.

(j) *Excluded receipts*—(1) *In general.* Notwithstanding the provisions of paragraphs (b) through (i) of this section, qualified export receipts of a DISC do not include any of the five amounts described in subparagraphs (2) through (6) of this paragraph.

(2) *Sales and leases of property for ultimate use in the United States.* Property which is sold or leased for ultimate use in the United States does not constitute export property. See §1.993–3(d)(4) (relating to determination of where the ultimate use of the property occurs). Thus, qualified export receipts of a DISC described in paragraph (b) or (c) of this section do not include gross receipts of the DISC from the sale or lease of such property.

(3) *Sales of export property accomplished by subsidy.* Qualified export receipts of a DISC do not include gross receipts described in paragraph (b) of this section if the sale of export property (whether or not such property consists of agricultural products) is pursuant to any of the following:

(i) The development loan program, or grants under the technical cooperation and development grants program of the Agency for International Development, or grants under the military assistance program administered by the Department of Defense, pursuant to the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151), unless the DISC shows to the satisfaction of the district director that, under the conditions existing at the time of the sale, the purchaser had a reasonable opportunity to purchase, on competitive terms and from a seller who was not a U.S. person, goods which were substantially identical to

such property and which were not manufactured, produced, grown, or extracted (as described in §1.993–3(c)) in the United States,

(ii) The Pub. L. 480 program authorized under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701–1710),

(iii) For taxable years ending before January 1, 1974, the Barter program of the Commodity Credit Corporation authorized by section 4(h) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714b(h)), and section 303 of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1692) but only if the taxpayer treats such sales as sales giving rise to excluded receipts,

(iv) The Export Payment program of the Commodity Credit Corporation authorized by sections 5(d) and (f) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714c (d) and (f)),

(v) The section 32 export payment programs authorized by section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), and

(vi) For taxable years beginning after November 3, 1972, the Export Sales program of the Commodity Credit Corporation authorized by sections 5 (d) and (f) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714c (d) and (f)), other than the GSM–4 program provided under 7 CFR part 1488, and section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), for the purpose of disposing of surplus agricultural commodities and exporting or causing to be exported agricultural commodities, except that for taxable years beginning on or before November 3, 1972, the taxpayer may treat such sales as sales giving rise to excluded receipts.

(4) *Sales or lease of export property and furnishing of engineering or architectural services for use by the United States*—(i) *In general.* Qualified export receipts of a DISC do not include gross receipts described in paragraph (b), (c), or (h) of this section if a sale or lease of export property, or the furnishing of engineering or architectural services, is for use by the United States or an instrumentality thereof in any case in which any law or regulation requires in any manner the purchase or lease of property manufactured, produced, grown, or extracted in the United States or requires the use of engineering or architectural services performed by a U.S. person. For example, a sale by a DISC of export property to the Department of Defense for use outside the United States would not produce qualified export receipts for such DISC if the Department of Defense purchased such property from appropriated funds subject to any provisions of the Armed Services Procurement Regulations (32 CFR subchapter A, part 6, subpart A) or any appropriations act for the Department of Defense for the applicable year which restricts the availability of such appropriated funds to the procurement of items which are grown, reprocessed, reused, or produced in the United States.

(ii) *Direct or indirect sales or leases.* Any sale or lease of export property is for use by the United States or an instrumentality thereof is such property is sold or leased by a DISC (or by a principal for whom such DISC acts as commission agent) to—

(*a*) A person who is a related person with respect to such DISC or such principal and who sells or leases such property for use by the United States or an instrumentality thereof or

(*b*) A person who is not a related person with respect to such DISC or such principal if, at the time of such sale or lease, there is an agreement or understanding that such property will be sold or leased for use by the United States or an instrumentality thereof (or if a reasonable person would have known at the time of such sale or lease that such property would be sold or leased for use by the United States or an instrumentality thereof) within 3 years after such sale or lease.

(iii) *Excluded programs.* The provisions of subdivisions (i) and (ii) of this subparagraph do not apply in the case of a purchase by the United States or an instrumentality thereof if such purchase is pursuant to—

(*a*) The Foreign Military Sales Act, as amended (22 U.S.C. 2751 *et seq.*), or a program under which the U.S. Government purchases property for resale, on

commercial terms, to a foreign government or agency or instrumentality thereof, or

(*b*) A program (whether bilateral or multilateral) under which sales to the U.S. Government are open to international competitive bidding.

(5) *Services.* Qualified export receipts of a DISC do not include gross receipts described in paragraph (d) of this section (concerning related and subsidiary services) if the services from which such gross receipts are derived are related and subsidiary to the sale or lease of property which results in excluded receipts pursuant to this paragraph.

(6) *Receipts within controlled group*—(i) *In general.* Gross receipts of a corporation do not constitute qualified export receipts for any taxable year of such corporation if—

(*a*) At the time of the sale, lease, or other transaction resulting in such gross receipts, such corporation and the person from whom such receipts are directly or indirectly derived (whether or not such corporation and such person are the same person) are members of the same controlled group (as defined in paragraph (k) of this section) and

(*b*) Such corporation and such person each qualifies (or is treated under section 992(a)(2)) as a DISC for its taxable year in which its receipts arise.

Thus, for example, assume that R, S, X, and Y are members of the same controlled group and that X and Y are DISC's. If R sells property to S and pays X a commission relating to that sale and if S sells the same property to an unrelated foreign party and pays Y a commission relating to that sale, the receipts received by X from the sale of such property by R to S will be considered to be derived from Y, a DISC which is a member of the same controlled group as X, and thus will not result in qualified export receipts to X. The receipts received by Y from the sale to an unrelated foreign party may, however, result in qualified export receipts to Y. For another example, if R and S both assign the commissions to X, receipts derived from the sale from R to S will be considered to be derived from X acting as commission agent for S and will not result in qualified export receipts to X. Receipts derived by X from the sale of property by S to an unrelated foreign party, may, however, constitute qualified export receipts.

(ii) *Leased property.* See §1.993–3(f)(2) regarding property not constituting export property in certain cases where such property is leased to any corporation which is a member of the same controlled group as the lessor.

(k) *Definition of ''controlled group''.* For purposes of sections 991 through 996 and the regulations thereunder, the term ''controlled group'' has the same meaning as is assigned to the term ''controlled group of corporations'' by section 1563(a), except that (1) the phrase ''more than 50 percent'' is substituted for the phrase ''at least 80 percent'' each place the latter phrase appears in section 1563(a), and (2) section 1563(b) shall not apply. Thus, for example, a foreign corporation subject to tax under section 881 may be a member of a controlled group. Furthermore, two or more corporations (including a foreign corporation) are members of a controlled group at any time such corporations meet the requirements of section 1563(a) (as modified by this paragraph).

(l) *DISC's entitlement to income*—(1) *Application of section 994.* A corporation which meets the requirements of §1.992–1(a) to be treated as a DISC for a taxable year is entitled to income, and the intercompany pricing rules of section 994(a)(1) or (2) apply, in the case of any transactions described in §1.994–1(b) between such DISC and its related supplier (as defined in §1.994–1(a)(3)). For purposes of this subparagraph, such DISC need not have employees or perform any specific function.

(2) *Other transactions.* In the case of a transaction to which the provisions of subparagraph (1) of this paragraph do not apply but from which a DISC derives gross receipts, the income to which the DISC is entitled as a result of the transaction is determined pursuant to the terms of the contract for such transaction and, if applicable, section 482 and the regulations thereunder.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example 1. P Corporation forms S Corporation as a wholly-owned subsidiary. S qualifies as a DISC for its taxable year. S has no employees on its payroll. S is granted a franchise with respect to specified exports of P. P will sell such exports to S for resale by S. Such exports are of a type which produce qualified export receipts as defined in paragraph (b) of this section. P's sales force will solicit orders in the name of S using S's order forms. S places orders with P only when S itself has received orders. No inventory is maintained by S. P makes shipments directly to customers of S. Employees of P will act for S and billings and collections will be handled by P in the name of S. Under these facts, the income derived by S for such taxable year from the purchase and resale of the specified export is treated for Federal income tax purposes as the income of S, and the amount of income allocable to S will be determined under section 994 of the Code.

Example 2. P Corporation forms S Corporation as a wholly-owned subsidiary. S qualifies as a DISC for its taxable year. S has no employees on its payroll. S is granted a sales franchise with respect to specified exports of P and will receive commissions with respect to such exports. Such exports are of a type which will produce gross receipts for S which are qualified export receipts as defined in paragraph (b) of this section. P's sales force will solicit orders in the name of P. Billings and collections are handled directly by P. Under these facts, the commissions paid to S for such taxable year with respect to the specified exports shall be treated for Federal income tax purposes as the income of S, and the amount of income allocable to S is determined under section 994 of the Code.

[T.D. 7514, 42 FR 55454, Oct. 17, 1977; 42 FR 60910, Nov. 30, 1977, as amended by T.D. 7854, 47 FR 51739, Nov. 17, 1982]

§ 1.993–2 Definition of qualified export assets.

(a) *In general.* For a corporation to qualify as a DISC, at the close of its taxable year it must have qualified export assets with adjusted bases equal to at least 95 percent of the sum of the adjusted bases of all its assets. An asset which is a qualified export asset under more than one paragraph of this section shall be taken into account only once in determining the sum of the adjusted bases of all qualified export assets. Under section 993(b), the qualified export assets held by a corporation are—

(1) Export property as defined in §1.993–3 (see paragraph (b) of this section),

(2) Business assets described in paragraph (c) of this section,

(3) Trade receivables described in paragraph (d) of this section,

(4) Temporary investments to the extent described in paragraph (e) of this section,

(5) Producer's loans as defined in §1.993–4 (see paragraph (f) of this section),

(6) Stock or securities (described in paragraph (g) of this section) of related foreign export corporations as defined in §1.993–5,

(7) Export-Import Bank and other obligations described in paragraph (h) of this section,

(8) Financing obligations described in paragraph (i) of this section, and

(9) Funds awaiting investment described in paragraph (j) of this section.

(b) *Export property.* In general, export property is certain property held for sale or lease which meets the requirements of §1.993–3.

(c) *Business assets.* For purposes of this section, business assets are assets used by a DISC (other than as a lessor) primarily in connection with—

(1) The sale, lease, storage, handling, transportation, packaging, assembly, or servicing of export property, or

(2) The performance of engineering or architectural services (described in §1.993–1(h)) or managerial services (described in §1.993–1(i)) in furtherance of the production of qualified export receipts.

Assets used primarily in the manufacture, production, growth, or extraction (within the meaning of §1.993–3(c)) of property are not business assets.

(d) *Trade receivables*—(1) *In general.* For purposes of this section, trade receivables are accounts receivable and evidences of indebtedness which arise by reason of transactions of such corporation or of another corporation which is a DISC and which is a member of a controlled group which includes such corporation described in subparagraph (A), (B), (C), (D), (G), or (H), of section 993(a)(1) and which are due the DISC (or, if it acts as an agent, due its principal) and held by the DISC.

(2) *Trade receivables representing commissions.* If a DISC acts as commission agent for a principal in a transaction described in §1.993–1 (b), (c), (d), (e), (h),