

Continuous Transfer Pricing Documentation Standards

Taxpayers may avoid major accuracy related penalties under IRC Section 6662 related to transfer pricing issues if they maintain “continuous transfer pricing documentation.” That documentation consists of both “principal documents” and “background documents.” The following description is taken from the IRS training materials, “The Section 6662(e) Substantial and Gross Valuation Misstatement Penalty,” found at: http://www.irs.gov/pub/irs-apa/penalties6662_e.pdf.

Ten Principal Documents

1. Overview of the business.
2. Description of the organizational structure of all related parties engaged in transactions potentially relevant under I.R.C. ' 482.
3. Documentation explicitly required by the regulations under I.R.C. ' 482. This item may include market share strategies under Treas. Reg. ' 1.482(d)(4)(i), unspecified transfer pricing methods under Treas. Reg. ' 1.482-3(e) and 1.482-4(d), profit split methods under Treas. Reg. ' 1.482-6, cost sharing agreements under Treas. Reg. ' 1.482-7, exceptions to adjustments for transfers of intangibles and lump sum payments under Treas. Reg. ' 1.482-4(f)(5).
4. Description of the transfer pricing method selected and explanation of why it was selected.
5. Description of the methods that were considered and explanation of why they were not selected.
6. Description of the controlled transactions.
7. Description of the comparables that were used.
8. Explanation of the economic analysis and projections relied upon in developing the method.
9. Description of any relevant data that as obtained after the end of the tax year and before filing a tax return, and which would help determine if a specified method was selected. and applied in a reasonable manner.
10. Index of the principal and background documents and a description of the record keeping system used for cataloging and accessing those documents.

Background Documents

Background documents are those that support the assumptions, conclusions and positions taken in the principal documents. The documents are the research and primary sources needed to prepare the principal documents. They may include but are not limited to documents listed in Treas.Reg.' 1.6032A-3(c).