

Clarification of Schedule P (Form 1120-FSC)

Notice 2000-49

This notice clarifies the availability of tabular schedules as alternative reporting formats on Schedule P of Form 1120-FSC, filed by foreign sales corporations, for 1999 and prior taxable years.

SECTION I. BACKGROUND

Foreign sales corporations (FSCs) use Schedule P, "Transfer Price or Commission," of Form 1120-FSC, "U.S. Income Tax Return of a Foreign Sales Corporation," to compute the transfer price to charge a FSC or the commission to pay to a FSC under the FSC administrative pricing rules of section 925 of the Internal Revenue Code. The transfer price or commission allocates foreign trading gross receipts from the sale of export property and certain services between a FSC and its related supplier.

Under the administrative pricing rules, each transaction generating foreign trading gross receipts is reportable on Schedule P. Under Temp. Treas. Reg. § 1.925(a)-1T(c)(8), a FSC and its related supplier may elect to group transactions on a product or product line basis and must make the election for each group on Schedule P. Item B of Schedule P provides checkboxes for a FSC to indicate whether the Schedule P is filed on a "Transaction-by-transaction" basis or with respect to a "Group of transactions."

In the 1999 version of Schedule P ("1999 Schedule P"), applicable to calendar year 1999 and other taxable years beginning during 1999, item B also permits FSCs that choose to report on a transaction-by-transaction basis to check either of two subsidiary checkboxes representing alternative reporting formats for filing Schedule P. If the FSC chooses an "aggregate" format, the instructions to Schedule P specify that the FSC may combine on a single Schedule P all transactions in a product or product line to which the same administrative pricing method is applied. Where not all aggregated transactions fall within the same product or product line, or where the FSC uses more than one pricing method, the instructions require the FSC to file additional Schedules P, so that a separate Schedule P is filed for each combination of product or product line and pricing method, *i.e.*, for each aggregate. To be eligible for the aggregate reporting format, the FSC and its related supplier must maintain a supporting schedule containing all information that would be reported if a separate Schedule P were filed for each transaction.

The other alternative reporting format for which the 1999 Schedule P provides a checkbox for reporting on a transaction-by-

transaction basis is a tabular schedule in spreadsheet or similar format. The type of tabular schedule represented by this checkbox does not aggregate transactions but rather reports as a separate line item all Schedule P information for each transaction.

For taxable years beginning before January 1, 1999, item B of Schedule P permitted an aggregate reporting format that differed in some respects from the aggregate reporting format permitted on the 1999 Schedule P. Unlike the 1999 Schedule P, the former versions of Schedule P permitted an aggregate Schedule P to be filed not only for transaction-by-transaction reporting but also for groups of transactions consisting of products or product lines using the FSC administrative pricing rules. Also, unlike the 1999 Schedule P, the former versions of Schedule P did not expressly prescribe any form of tabular schedule as an alternative reporting format. *See generally* Notice 99-23, 1999-20 I.R.B. 73.

During the filing season for 1999 FSC income tax returns, several taxpayers and practitioners have asked the Service to clarify whether FSCs filing 1999 Schedule P and its predecessors may use a tabular schedule under the aggregate reporting format, reporting each aggregate of transactions (or, as permitted for taxable years beginning before January 1, 1999, each aggregate of groups) as a line item.

SECTION II. CLARIFICATIONS TO SCHEDULE P AND INSTRUCTIONS

The Service will accept a tabular schedule in spreadsheet or similar format as the equivalent of aggregate Schedules P for taxable years beginning before January 1, 2000, notwithstanding the absence of a specific checkbox for such a tabular schedule, provided that (1) the tabular schedule accompanies a partially completed Schedule P indicating the FSC's name and employer identification number (EIN); (2) the accompanying Schedule P shows a check mark in the appropriate checkbox for aggregation in item B (box 1a on 1999 Schedule P, or box 3 on prior years' Schedules P); (3) the tabular schedule reports all information as if a separate Schedule P were filed for each permitted aggregate of transactions or groups of transactions; (4) the tabular schedule is formatted in columns that correspond to item A, item C, and each line

item in Parts I, II and III of Schedule P; (5) each column is totaled; and (6) each page contains a page number and the FSC's name and EIN.

FSCs filing aggregate tabular schedules in accordance with this notice should enter "FILED UNDER NOTICE 2000-49" across the top of the tabular schedule and the accompanying Schedule P.

SECTION III. 2000 SCHEDULE P

The Service intends to incorporate these clarifications into the version of Schedule P and corresponding instructions to be issued for taxable years beginning during 2000 ("2000 Schedule P"). In the 2000 Schedule P, the Service expects to refine the "Aggregate" checkbox for transaction-by-transaction reporting by providing two checkboxes in its place, one for aggregation on Schedules P and one for aggregation on a tabular schedule as an alternative reporting format. The existing checkbox for a tabular schedule of transactions without aggregation (generally used by FSCs engaging in a small number of transactions) will remain as a third alternative reporting format for transaction-by-transaction reporting. Unchanged will be the checkbox for grouping of transactions, where aggregation is not permitted and FSCs are generally required to use a tabular schedule as the reporting format.

SECTION IV. DRAFTING INFORMATION

The principal author of this notice is Douglas Giblen of the Office of Associate Chief Counsel (International). For further information regarding this notice, contact Mr. Giblen at (202) 874-1490 (not a toll-free call).