

1 construed to require that the related member pay, receive, accrue or incur the
 2 amount in an identical transaction to that giving rise to the expense that is subject to
 3 add-back under Subparagraph (a) of this Paragraph;

4 (ii) The item of income corresponding to the royalty payment or interest
 5 expense is subject to a tax measured in whole or in part by net income or receipts in
 6 Louisiana, in any other state or possession of the United States, or in a country other
 7 than the United States;

8 (iii) The related member receiving the royalty payments regularly engages
 9 in transactions involving intangible property with one or more unrelated parties on
 10 terms substantially similar to those of the subject transaction;

11 (iv) The related member receiving the royalty payments or interest expense
 12 payments directly or indirectly acquired the intangible assets, for which the
 13 payments are being made, from a person or entity that was not a related member, and
 14 the transaction was done for a valid business purpose other than the avoidance of
 15 taxes;

16 (v) The taxpayer demonstrates that the add-back amounts otherwise required
 17 by this Paragraph are unreasonable.

18 (c) As used in this Paragraph, the following terms have the following
 19 meanings:

20 (i) "Related member" means a person, corporation, or other entity, including
 21 an entity that is treated as a partnership or other pass-through entity for purposes of
 22 federal taxation, whether the person, corporation, or entity is a taxpayer or not, where
 23 one person, corporation, or entity, or set of related persons, corporations, or entities,
 24 directly or indirectly owns or controls a majority interest in another entity.

25 (ii) "Majority interest" means, in the case of a corporation, either more than
 26 fifty percent of the total combined voting power of all classes of stock of the
 27 corporation, or more than fifty percent of the capital, profits, or beneficial interest
 28 in the voting stock of the corporation, and, in the case of a partnership, association,
 29 trust, or other entity, more than fifty percent of the capital, profits, or beneficial
 30 interest in the partnership, association, trust, or other entity.

31 (iii) "Royalty payments" means payments or accruals directly connected to
 32 the acquisition, use, maintenance, management, or ownership of patents, patent
 33 applications, licenses, trademarks, copyrights, trade names, trade dress, service
 34 marks, mask works, trade secrets, and patents, to the extent those amounts are
 35 allowed as deductions in the calculation of federal taxable income. "Royalty
 36 payments" shall also include amounts allowable as interest deductions under §163
 37 of the Internal Revenue Code to the extent those amounts are directly for the
 38 acquisition, use, maintenance, management or ownership of intangible assets.

39 (iv) "Interest expense" means amounts directly or indirectly allowed as
 40 deductions under §163 of the Internal Revenue Code for purposes of determining
 41 taxable income under the Internal Revenue Code.

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