



# Brand X, 3M, and Legal Restrictions On the Payment of Income

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*Tax Notes*

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3M Co. has filed a Tax Court petition challenging the validity of provisions in the section 482 regulations that impose conditions on the circumstances in which the IRS will give effect to foreign legal restrictions on the payment of income between related parties. The principal legal issue in the case will be whether those provisions are invalid under *Brand X*, which addressed an agency's authority to issue regulations at odds with a court's earlier interpretation of the same statutory provision. The regulations challenged by 3M are arguably inconsistent with *First Security Bank*. Under the *Brand X* test, the regulations should be held invalid, because *First Security Bank* represented the Supreme Court's view on the only permissible interpretation.