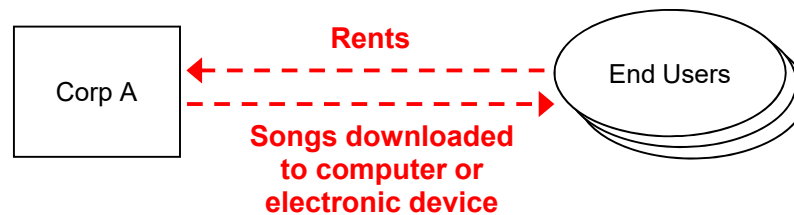


**Prop. Reg. 1.861-18(h),
Example 20**

**Non-Perpetual Right to
Downloaded Songs
Are Leases**

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Songs downloaded (a transfer of a computer program and not streaming), copyrighted article & no access to songs after stop paying = lease

Corp A offers end-users memberships that provide them with unlimited access to Corp A's catalog of copyrighted music in exchange for a monthly fee. In order to access the music, an end-user must download each song onto a computer or other electronic device. The end-user may download songs onto a limited number of its devices. Under the membership agreement terms, an end-user may listen to the songs but may not reproduce or distribute copies of them. Once the end-user stops paying Corp A the monthly membership fee, an electronic lock is activated so that the end-user can no longer access the music.

The end-users receive none of the copyright rights described in Reg. 1.861-18(c)(2) and instead receive only copies of the digital content. Therefore, under Reg. 1.861-18(c)(1)(ii), each download is classified as the transfer of a copyrighted article. Although an end-user will retain a copy of the content at the end of the payment term, the end-user cannot access the content after the electronic lock is activated. Taking into account the special characteristics of digital content as provided in Reg. 1.861-18(f)(3), the activation of the electronic lock is the equivalent of having to return the copy. Therefore, under Reg. 1.861-18(f)(2), each transaction is classified as a lease of a copyrighted article because the right to access the music is limited.

[HUNDREDS of additional charts at www.andrewmitchel.com](http://www.andrewmitchel.com)