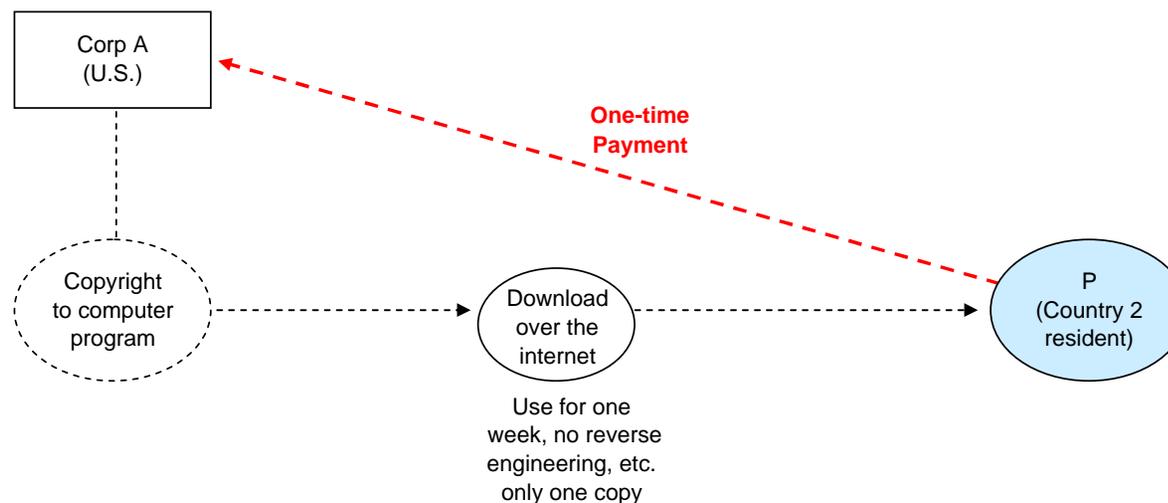


Reg. 1.861-18(h), Example 4

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Use of Computer Program Downloaded Over Internet Treated as Lease of Copyrighted Article



Corp A, a U.S. corporation, owns the copyright in a computer program, Program X. Corp A, decides to make Program X available, for a fee, on a World Wide Web home page on the Internet. P, a Country Z resident, receives Program X from Corp A's home page on the Internet, except that P may only use Program X for a period of one week at the end of which an electronic lock is activated and the program can no longer be accessed. Thereafter, if P wishes to use Program X, it must return to the home page and pay Corp A to send an electronic key to reactivate the program for another week.

P has not received any copyright rights. P has received a copy of the program, and the means of transmission is irrelevant. P has, therefore, received a copyrighted article. P is not properly treated as the owner of a copyrighted article. Therefore, there has been a lease of a copyrighted article rather than a sale. While P does retain Program X on its computer at the end of the one week period, as a legal matter P no longer has the right to use the program (without further payment) and, indeed, cannot use the program without the electronic key. Functionally, Program X is no longer on the hard drive of P's computer. Instead, the hard drive contains only a series of numbers which no longer perform the function of Program X.