SCHEDULE H (Form 1120)
(Rev. December 2011)
Department of the Treasury
Internal Revenue Service

Section 280H Limitations for a Personal Service Corporation (PSC)

► **Attach to PSC's income tax return if Part II is completed.**

OMB No. 1545-0123

Name | Employer identification number

Note: *A newly organized PSC is considered to have met the section 280H distribution requirements for the first year of its existence and does not have to complete Schedule H. If, during the tax year, an existing corporation becomes a PSC and makes a section 444 election, the corporation is treated as if it were a PSC for the 3 preceding tax years. See Temporary Regulations section 1.280H-1T(e).*

Part I Minimum Distribution Requirement (see instructions)

1	Enter applicable amounts from preceding tax year	1	
2	Divide number of months in deferral period of preceding tax year by number of months in preceding tax year. Enter the result as a percentage	2	%
3	**Amount figured under preceding year test.** Multiply line 1 by the percentage on line 2	3	
4	Enter applicable amounts from the deferral period of the applicable election year	4	
	If line 4 is less than line 3, go to line 5. Otherwise, **stop here.** The PSC has met the minimum distribution requirement. **Do not** attach Schedule H to the PSC's income tax return. Keep Schedule H with the PSC's tax records.		
5	Enter applicable amounts from the:		
a	1st tax year before applicable election year	5a	
b	2nd tax year before applicable election year	5b	
c	3rd tax year before applicable election year	5c	
6	**Total.** Add lines 5a through 5c	6	
7	Enter adjusted taxable income for the:		
a	1st tax year before applicable election year	7a	
b	2nd tax year before applicable election year	7b	
c	3rd tax year before applicable election year 1	7c	
8	**Total.** Add lines 7a through 7c	8	
9	Divide line 6 by line 8	9	%
10	Enter the percentage from line 9 or 95%, whichever is smaller	10	%
11	Enter adjusted taxable income for the deferral period of the applicable election year	11	
12	**Amount figured under 3-year average test.** Multiply line 11 by line 10	12	
13	**Minimum distribution requirement.** Enter the smaller of line 3 or line 12	13	

- If line 13 is **equal to or less** than line 4, **stop here.** The PSC has met the minimum distribution requirement. **Do not** complete Part II and **do not** attach Schedule H to the PSC's income tax return. Keep Schedule H with the PSC's tax records.
- If line 13 is **more than** line 4, the PSC's deduction for applicable amounts is limited under section 280H. Complete Part II to figure the maximum amount the PSC can deduct.

Part II Maximum Deductible Amount (see instructions)

14	Enter amount from line 4	14	
15	Enter number of months in deferral period of applicable election year	15	
16	Divide line 14 by line 15	16	
17	**Nondeferral period.** Subtract the number of months in the deferral period from the number of months in the applicable tax year. Enter the result	17	
18	Multiply line 16 by line 17	18	
19	**Maximum deductible amount.** Add lines 14 and 18. The PSC's deduction for applicable amounts paid or incurred to employee-owners is limited to this amount. **Attach Schedule H to the PSC's income tax return.** Any amount not allowed because of the section 280H(d) limitation is treated as paid or incurred in the PSC's succeeding tax year	19	

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Schedule

A personal service corporation (PSC) (as defined in section 441(i)(2)) may elect under section 444 to have a tax year other than a calendar year. A PSC that makes the election is subject to the minimum distribution requirement of section 280H for the year the election is made and for each tax year the election remains in effect. If the PSC does not meet the requirement, its deduction for amounts paid or incurred to employee-owners (see *Applicable amount* below) is limited.

Use Part I of Schedule H to determine if the PSC meets the minimum distribution requirement of section 280H(c) for the tax year. Use Part II to figure the limits on deductions under section 280H(d) if the requirement is not met.

Who Must File

A PSC that has elected under section 444 to have a tax year other than a calendar year must complete Schedule H. If the PSC does not meet the minimum distribution requirement of section 280H for the tax year, it must file Schedule H with its Form 1120. If it does meet the requirement, it does not need to attach the completed Schedule H to its tax return, but it should keep it with its tax records.

Definitions

Applicable election year. An applicable election year is any tax year in which a section 444 election is in effect.

Applicable amount. An applicable amount is any amount otherwise deductible by a PSC in a tax year that is includible (directly or indirectly) in the gross income of a taxpayer who is an employee-owner at any time during that year. See the instructions for line 1 for an example of how to figure a PSC's applicable amounts.

Exception. Dividends paid by the corporation and gain on the sale or exchange of property between the owner-employee and the corporation are not applicable amounts.

An amount is indirectly includible in the gross income of an employee-owner if the amount is includible in the gross income of certain related parties. For details and examples, see Temporary Regulations sections 1.280H-1T(b)(4)(ii) and 1.280H-1T(b)(4)(iii).

Employee-owner. An employee-owner is a person who, on any day of the PSC's tax years:

- Is an employee of the PSC or who performs services for or on behalf of the PSC (including an independent contractor) and
- Owns any outstanding stock of the PSC.

Deferral period. The deferral period is the number of months between the last day of the elected tax year and the last day of the required tax year.

Example. The PSC elects a tax year that ends on September 30. Since the required tax year for a PSC is the calendar year, the deferral period is 3 months (the number of months between September 30 and December 31).

Nondeferral period. The nondeferral period is the part of the tax year that occurs after the part of the year that constitutes the deferral period.

Adjusted taxable income. Adjusted taxable income is taxable income determined without regard to:

- Applicable amounts and
- Any NOL carryover to the extent the carryover is attributable to applicable amounts.

Adjusted taxable income for the deferral period of an applicable election year is the adjusted taxable income that would result if the PSC filed an income tax return for the deferral period under its normal method of accounting. Reasonable estimates are acceptable.

For more information, see Temporary Regulations section 1.280H-1T(c)(3)(iii).

Specific Instructions

Part I

Complete Part I to see if the PSC meets the minimum distribution requirement of section 280H(c). The PSC meets the requirement if, during the deferral period of the tax year, the applicable amounts paid or incurred for all employee-owners are equal to or greater than the smaller of:

- The amount determined under the preceding year test or
- The amount determined under the 3-year average test.

Complete lines 1 through 4 to determine if the preceding year test applies to the PSC. If it does not, complete the rest of Part I to see if the 3-year average test applies.

Line 1. Enter the applicable amount that was paid or incurred in the preceding tax year to any employee-owner of the PSC and that was otherwise deductible by the PSC on its preceding income tax return.

Example. PEK, an accrual basis personal service corporation with a tax year ending September 30, made a section 444 election for its tax year beginning October 1, 2010. On October 1, 2010, S, an employee of PEK, owned no stock of PEK; however, on March 31, 2011, S acquired 10 of the 200 outstanding shares of PEK stock. During the period October 1, 2010 to March 31, 2011, S earned $40,000 of compensation as an employee of PEK. During the period April 1, 2011, to September 30, 2011, S earned $60,000 of compensation as an employee-owner of PEK. The entire $100,000 compensation paid to S during PEK's tax year ending September 30, 2011, was otherwise deductible by PEK and includible in S's gross income. For its 2011 tax year, it is an applicable amount for PEK from the preceding tax year.

See Temporary Regulations section 1.280H-1T(c) for more information, including examples of the computation of the preceding-year test and the 3-year average test.

Part II

Complete Part II to figure the maximum deduction under section 280H(d) for applicable amounts if the PSC did not meet the minimum distribution requirement figured in Part I.