

### Revenue Ruling 92-65

**Taxable year and tax rate of a personal service corporation.** The portion of *Rev. Rul. 91-30, 1991-1 C.B. 61*, that requires a corporation whose employees perform veterinary services to use the 34 percent corporate income tax rate pursuant to *section 11 (b) (2) of the Code* will not be applied to taxable years beginning prior to May 13, 1991. A corporation whose employees perform veterinary services and is required to use a calendar year as its taxable year pursuant to *section 441 (i)* will be permitted to defer any required change in taxable year under *Rev. Rul. 91-30* until its first taxable year beginning after December 31, 1991. *Rev. Rul. 91-30* modified.

*Rev. Rul. 91-30, 1991-1 C.B. 61*, holds that a corporation whose employees perform veterinary services is a "qualified personal service corporation" under *sections 448 (d) (2) and 11 (b) (2) of the Internal Revenue Code*, and a "personal service corporation" under *section 441 (1)*, provided the corporation otherwise qualifies as a qualified personal service corporation under *section 448 (d) (2)* and the regulations there under and a personal service corporation under *section 441 (i)* and the regulations thereunder. Thus, such a corporation (1) is not precluded from using the cash method of accounting pursuant to *section 448 (b) (2)*, (2) must use the 34 percent corporate income tax rate pursuant to *section 11 (b) (2)*, and (3) must use a calendar year as its taxable year under *section 441 (i)* unless the corporation establishes a business purpose for having a different taxable year or properly makes an election under *section 444*.

#### PROSPECTIVE APPLICATION

The portion of *Rev. Rul. 91-30, 1991-1 C.B. 61*, that requires a corporation whose employees perform veterinary services to use (1) the 34 percent corporate income tax rate pursuant to *section 11 (b) (2) of the Code*, and (2) a calendar year as its taxable year pursuant to *section 441 (i)*, will not be applied to taxable years beginning prior to May 13, 1991, the date that *Rev. Rul. 91-30* was published. Additionally, because of the administrative difficulties associated with, and the unavailability of prior guidance regarding, any required change in taxable year under *Rev. Rul. 91-30*, any personal service corporation that performs veterinary services (and that did not file its return for the taxable year ending prior to May 13, 1991, on the basis of a calendar year) will be permitted to defer any required change in taxable year under *Rev. Rul. 91-30* until its first taxable year beginning after December 31, 1991.

#### APPLICATION

For its first taxable year beginning after December 31, 1991, a personal service corporation that performs veterinary services and files tax returns using a fiscal year will be required to change to the calendar year unless it (1) establishes a business purpose for having a different period for its taxable year, or (2) makes an election under *section 444 of the Code* either to retain its present taxable year or to use another taxable year for which it is qualified to make the election. To establish a business purpose for a taxable year other than a calendar year, a Form 1128, Application to Adopt, Change, or Retain a Tax Year, must be filed in accordance with *Rev. Proc. 87-32, 1987-2 C.B. 3*. To make an election under *section 444*, a Form 8716, Election to

Have a Tax Year Other Than a Required Tax Year, must be filed with the Internal Revenue Service Center where the corporation files its tax returns. If the taxpayer files either Form 1128 or Form 8716, the Form will be considered to have been timely filed if it is filed by February 28, 1993.

To assist in the processing of any tax return, application, or election filed in accordance with this revenue ruling, taxpayers should refer to this revenue ruling by either typing or legibly printing, at the top of the first page of the return, application, or election, the following: "FILED UNDER *REVENUE RULING 92-65*."

#### EFFECT ON OTHER DOCUMENTS

*Rev. Rul. 91-30, 1991-1 C.B. 61*, is modified.