

Revenue Ruling 91-30

Limitation on use of cash method of accounting; personal service corporations. A corporation whose employees perform veterinary services is a qualified personal service corporation under *sections 448 (d) (2) and 11 (b) (2) of the Code*, and a personal service corporation under *section 441 (i) (2)*.

ISSUE

Is a corporation whose employees perform veterinary services a qualified personal service corporation within the meaning of *sections 448 (d) (2) and 11 (b) (2) of the Internal Revenue Code*, and a personal service corporation within the meaning of *section 441 (i)*?

FACTS

X is a domestic C corporation whose employees spend all their time in the performance of veterinary services. These services include diagnostic and recuperative services as well as activities, such as the boarding and grooming of animals, that are incident to the performance of these services.

For its 1990 taxable year, X met the employee-ownership requirement of *section 1.441-4T (d) (1) (iv) of the temporary Income Tax Regulations*. If X's services are within the field of health (within the meaning of *section 448 (d)-(2) (A) of the Code*), X will also have met the principal activity and the substantially performed requirements of *sections 1.441-4T (d) (1) (ii) and (iii)*, and the function and ownership requirements of *sections 448 (d) (2) (A) and (B)*.

LAW AND ANALYSIS

Section 448 (a) (1) of the Code, which is generally effective for taxable years beginning after December 31, 1986, provides, in part, that except as otherwise provided in *section 448*, in the case of a C corporation, taxable income shall not be computed under the cash receipts and disbursements method of accounting (cash method).

Section 448 (b) (2) of the Code provides, in part, that *section 448 (a) (1)* shall not apply to qualified personal service corporations.

Section 448 (d) (2) of the Code defines the term "qualified personal service corporation" to mean any corporation (A) substantially all the activities of which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, and (B) substantially all the stock of which (by value) meets certain employee-ownership requirements.

Section 1.448-1T (e) (4) (i) of the temporary regulations provides, in part, that the performance of any activity incident to the actual performance of services in a qualifying field is considered the performance of services in that field. Activities incident to the performance of services in a qualifying field include the supervision of employees engaged in directly providing

services to clients, and the performance of administrative and support services incident to such activities.

Section 1.448-1T (e) (4) (ii) of the temporary regulations provides that the performance of service in the field of health means the provision of medical services by physicians, nurses, dentists, and other similar healthcare professionals.

Section 441 (i) (1) of the Code provides that the taxable year of any personal service corporation shall be the calendar year unless the corporation establishes, to the satisfaction of the Secretary, a business purpose for having a different period as its taxable year. (*Section 444*, however, provides a procedure permitting personal service corporations to elect, under specified circumstances, a taxable year other than a calendar year.) Section 1.441-4T (e) of the temporary regulations provides that only those activities described in *section 448 (d) (2) (A)* will be treated as performance of personal services.

Section 11 (b) (2) of the Code provides that the amount of the tax imposed by *section 11 (a)* on the taxable income of a qualified personal service corporation (as defined in *section 448 (d) (2)*) shall not be computed on the basis of the graduated rates in *section 11 (b) (1)*, but shall be equal to 34 percent of taxable income.

Veterinarians are "similar health care professionals" within the meaning of section 1.448-1T (e) (4) (ii) of the temporary regulations. Thus, for purposes of *section 448 (d) (2) (A) of the Code* and section 1.448-1T (e) (4) (i), the term "field of health" includes the provision of medical services by veterinarians.

Accordingly, *section 448 (a) of the Code* does not preclude X from using the cash method of accounting, X must use the 34 percent corporate income tax rate pursuant to *section 11 (b) (2)*, and must use a calendar year for its taxable year pursuant to *section 441 (i)* unless X establishes a business purpose for having a different taxable year or properly makes a *section 444* election.

HOLDING

A corporation whose employees perform veterinary services is a qualified personal service corporation within the meaning of *sections 448 (d) (2) and 11 (b) (2) of the Code*, and a personal service corporation within the meaning of *section 441 (i)*, provided the corporation otherwise qualifies as a qualified personal service corporation under *section 448 (d) (2)* and the regulations thereunder and a personal service corporation under *section 441 (i)* and the regulations thereunder.