

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

1992

Department of the Treasury
Internal Revenue Service

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

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 an existing corporation becomes a PSC during the tax year for which Schedule H is completed, the corporation is treated as if it were a PSC for the 3 preceding tax years. See Temporary Regulations section 1.280H-1T(e) for details.

Part I Minimum Distribution Requirement Under Section 280H(c) (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 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 tax return, but keep it with the PSC's tax records.	4		
5 Enter applicable amounts from:			
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, 5b, and 5c	6		
7 Enter PSC's adjusted taxable income (see instructions):			
a For 1st tax year before applicable election year	7a		
b For 2nd tax year before applicable election year	7b		
c For 3rd tax year before applicable election year	7c		
8 Total. Add lines 7a, 7b, and 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. 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.	13		

Part II Maximum Deductible Amount Under Section 280H(d) (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		

Instructions

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

Purpose of Schedule

Schedule H is used by personal service corporations (PSCs) that have elected 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.

Part I is used to determine if the PSC meets the minimum distribution requirement of section 280H for the tax year. Part II is used to figure the limits on deductions 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 and attach Schedule H to Form 1120 or 1120-A if it does not meet the minimum distribution requirement of section 280H for the tax year.

If a PSC meets the requirement, it does not need to file Schedule H with the tax return. But it should keep Schedule H with the PSC's 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 any taxpayer who is an employee-owner during that year.

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 it is includible in the gross income of certain related parties. For details, see Temporary Regulations section 1.280H-1T(b)(4)(ii).

Employee-owner.—An employee-owner is a person who:

- On any day of the PSC's tax year, is an employee of the PSC or who performs services for or on behalf of the PSC (including an independent contractor), and
- On any day of the PSC's tax year, 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 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 about the section 280H limitations, see sections 280H and 444 and the related temporary regulations.

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.

Use lines 1 through 4 to see if the preceding year test applies to the PSC. If it doesn't, complete the rest of Part I to see if the 3-year average test applies.

Part II

Use Part II to figure the maximum deduction for applicable amounts if the PSC did not meet the minimum distribution requirement figured in Part I.