

Election To Have a Tax Year Other Than a Required Tax Year

(Detach pages 3 and 4 before filing Form 8716.)

If after reviewing Form 8716 and instructions, and Temporary Regulations under sections 444, 7519, and 280H, an entity decides not to file Form 8716, see General Instruction E.

Please type or print	Name	Identifying number
	Number and street (P. O. box number if mail is not delivered to street address)	
	City or town, state, and ZIP code	

1 Check applicable box to show type of taxpayer: <input type="checkbox"/> Partnership <input type="checkbox"/> S Corporation <input type="checkbox"/> Personal Service Corporation (See line 6.)	2 Name and telephone number (including area code) of person who may be called for information:
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3 Enter ending date of present tax year or tax year being adopted (see instructions)	Month	Day	Year
4 Enter ending date of required tax year determined under section 706(b), 1378, or 441(i)	Month	Day	
5 Section 444(a) Election—Check the applicable box and enter the ending date of the tax year the entity is (see instructions): <input type="checkbox"/> Retaining <input type="checkbox"/> Changing to <input type="checkbox"/> Adopting	Month	Day	Year
6 Personal service corporation's applicable amounts for tax year beginning in 1987: a Applicable amounts paid before 1/1/88 b Applicable amounts the corporation paid (or expects to pay) during the 1987 election year (see instructions)			

Under penalties of perjury, I declare that the entity named above has authorized me to make this election under section 444(a), and that the statements made are, to the best of my knowledge and belief, true, correct, and complete.

Signature and title (see instructions)	Date
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Paperwork Reduction Act Notice.—We ask for this information to carry out the Internal Revenue laws of the United States. We need it to ensure that taxpayers are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information.

General Instructions

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

A. Purpose of Form.—Form 8716 is filed by partnerships, S corporations, and personal service corporations to elect to have a tax year other than a required tax year. The election is provided for by section 444(a).

A copy of the Form 8716 you file must be attached to Form 1065 or a Form 1120 series form (1120, 1120A, 1120S, etc.), whichever is applicable, for the first tax year for which the election is made.

B. When To File.—Except for the special extension stated below, Form 8716 must be filed by the earlier of:

(1) The 15th day of the 5th month following the month that includes the 1st day of the tax year for which the election will be effective, or

(2) The due date (without regard to extensions) of the income tax return for the tax year resulting from the section 444 election.

Items (1) and (2) relate to the tax year, or the return for the tax year, for which the ending date is entered in line 5 above.

Special extension.—If the date in (1) or (2) is prior to July 26, 1988, the date for filing Form 8716 is extended to July 26, 1988.

See Temporary Regulations section 1.444-3T for more information.

C. Where To File.—File the election with the Internal Revenue Service Center where the entity will file its return. See the instructions for Form 1065 and the Form 1120 series form(s) for Service Center addresses. If the entity is a foreign entity, file Form 8716 with the Service Center in Philadelphia, PA 19255.

D. Effect of Section 444 Election.—If the section 444 election is made, electing partnerships and S corporations must make a required payment of tax as provided by section 7519. Willful failure of an entity to make the required payment may result in the cancellation of an entity's election. See General Instruction I and page 3 for more information on figuring and making the required payment.

Electing personal service corporations (PSCs) are subject to the limitations of new section 280H. Willful failure of any PSC to comply with section 280H may result in the cancellation of the PSC's election. See General Instruction J and page 4 for more information on section 280H limitations.

E. Extended Filing Dates for Returns Associated With Section 444 Elections.—If a partnership, S corporation, or personal service corporation makes a section 444 election (or does not make a section 444 election, either because it is ineligible or because it decides not to make the election, and therefore changes to its required tax year), Temporary Regulations under section 444 provide an automatic extension of time to file Form 1065 or a Form 1120 series form, whichever is applicable, for the entity's

first tax year beginning after December 31, 1986. The automatic extension extends the filing date for the entity's return to the later of: (a) the established filing date as stated on the instructions for each return, or (b) August 15, 1988.

To inform the Service that an entity qualifies for the automatic extension, the entity should: (1) if the election is made, attach a copy of the Form 8716 it filed to its tax return and type or legibly print the words "SECTION 444 RETURN" in the upper left corner of page one of its tax return, or (2) if the election is not made, type or legibly print the words "SECTION 444 RETURN" in the upper left corner of page one of its return.

For information on additional extensions and other details, see Temporary Regulations section 1.444-3T.

F. Acceptance of Election.—After your election is received and accepted by the Service Center, the Center will stamp it "ACCEPTED" and return a copy to you. Be sure to keep a copy of the form marked "ACCEPTED" for your records.

G. End of Election.—Once the election is made, it remains in effect until the entity terminates its election. If the election is terminated, the entity may not make another section 444 election. See section 444(d)(2).

H. Signature.—Form 8716 is not considered an election unless it is signed. For partnerships, a general partner must sign and date the election. If a receiver, trustee in bankruptcy, or assignee controls the organization's property or business, that person must sign the return.

For corporations, the election must be signed and dated by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other corporate officer (such as tax officer) authorized to sign its tax return. If a receiver, trustee in bankruptcy, or assignee controls the corporation's property or business, that person must sign the election.

I. Required Payment of Tax.—

Partnerships and S corporations (entities) are required to make a payment for each tax year if: (1) an election under section 444 is in effect for the tax year (any tax year that a section 444 election is in effect, including the first year the section 444 election is made, is hereinafter called an applicable election year), and (2) the required payment for the applicable election year (or any preceding applicable election year) exceeds \$500. Required payments for applicable election years beginning in 1987 are made on the 2nd quarter **Form 720**, Quarterly Federal Excise Tax Return. The entity must file Form 720 and report a zero amount even if it is not required to make a payment.

See computation schedule on page 3 for details on how the required payment is figured. Also see section 7519 and related regulations for other details.

J. Minimum Distribution Requirements.—

An electing PSC is subject to the minimum distribution requirements of section 280H for its first applicable election year (and each subsequent applicable election year). If the PSC fails in any applicable election year to make the minimum distributions required by section 280H, the applicable amounts it may deduct for that applicable election year are limited to a maximum deductible amount.

See computation schedule on page 4 for details on figuring the required minimum distribution and the maximum deductible amount. Also see section 280H and related regulations for other details.

K. Members of Tiered Structure May Not Make Election.—

No election may be made under section 444(a) by an entity which is part of a tiered structure other than a tiered structure that consists entirely of partnerships or S corporations (or both) all of which have the same tax year. See section 444(d)(3) and related regulations for other details.

Specific Instructions

Line 1.—Check the applicable box in line 1 to show that you are a partnership, S corporation (or electing to be an S corporation), or personal service corporation.

A corporation that is electing to be an S corporation and that desires to make a section 444 election must make its section 444 election by the time specified in General Instruction B. The corporation is not required to attach a copy of Form 8716 to its **Form 2553**, Election by a Small Business Corporation. However, for Forms 2553 filed after September 26, 1988, the corporation is required to state on Form

2553 its intention to make a section 444 election (or a backup section 444 election). If a corporation is making a backup section 444 election (provided for in item Q, Part II, of Form 2553 (Rev. April 1988)), it must type or legibly print the words "BACKUP ELECTION" at the top of the Form 8716 it files to make the backup election. See Temporary Regulations section 1.444-3T for additional information.

Line 2.—Enter the name and telephone number (including the area code) of a person that the Service may contact for information that may be needed to complete the processing of the election. Be sure to sign the form and complete all applicable items on the form. Otherwise, the Service will not accept Form 8716 as a valid election.

Line 3.—Existing entities enter the ending date (month, day, year) of the tax year for your last filed return (Form 1065 or Form 1120 series form). If such year ended 12-31-87 and you had adopted or changed to the calendar tax year to meet the required tax year requirements and you are now electing under section 444 to use your prior fiscal year, show the 12-31-87 year ending date and the prior fiscal year ending date to the right of the 12-31-87 date.

A new entity enters the ending date of the tax year it is adopting.

Line 4.—See the Instructions for Form 1065 or a Form 1120 series form, whichever is applicable, and section 441(i), 1378, or 706(b) for a definition of a required tax year and other details.

Line 5.—Enter the ending date of the tax year the entity is electing under section 444. The following limitations and special rules apply in determining the tax year an entity may elect:

(a) New entity adopting a tax year.—An entity adopting a tax year may elect a tax year under section 444 only if the deferral period of the tax year is not longer than 3 months. For definition of deferral period see (f) below and section 444(b)(4).

(b) Existing entity retaining a tax year.—Generally, in case of an entity's 1st tax year beginning after 12-31-86, the entity may elect to retain its last tax year beginning in 1986. See section 444(b)(3). If the entity does not want to elect to retain its year, it could elect to change its tax year under (c) below.

(c) Existing entities changing tax years.—An existing entity may elect to change its tax year if the deferral period of the elected tax year is no longer than the shorter of: (1) three months, or (2) the deferral period of the tax year being changed.

For example, ABC, an S corporation that historically used a tax year ending October 31, wants to make a section 444 election to change its tax year for its tax year beginning 11-1-87. ABC's required tax year under section 1378 is a calendar tax year. In this case, the deferral period of the tax year being changed is 2 months. Thus, ABC may elect to retain its tax year beginning 11-1-87 and ending 10-31-88, or change it to a tax year beginning 11-1-87 and ending

11-30-87. However, it may not elect a tax year beginning 11-1-87 and ending 9-30-88 because the deferral period for that elected tax year is 3 months (9-30 to 12-31), which is longer than the 2-month deferral period of the tax year being changed. After filing the short year return (11-1-87 to 11-30-87), and as long as the section 444 election remains in effect, the corporation's tax year will begin 12-1 and end 11-30.

(d) In the case of a corporation that elected S status for a tax year **beginning in 1987** and elected to have a calendar year as a condition of making the S election with the IRS, the S corporation is allowed under section 444(b)(3) to elect to retain the fiscal year it had as a C corporation. If the S corporation does not want to elect to retain its prior fiscal year under section 444(b)(3), it may elect under section 444(b)(2) to change its prior C year to a year with a deferral period that is not longer than the shorter of 3 months or the deferral period of the tax year which is being changed.

(e) In the case of a former C corporation that elected S status after 9-18-86, for a tax year **beginning in 1986**, and elected to have a calendar year as a condition of making the S election with the IRS, the S corporation is now allowed under section 444(b)(2) to elect to change to a tax year that is not longer than the shorter of 3 months or the deferral period of the tax year which is being changed. Item (d) above does not apply to new corporations that elected S status for a tax year ending 12-31-86.

(f) Deferral period.—If you are electing to **retain** your tax year, the term "DEFERRAL PERIOD" means the months that occur between the beginning of the elected tax year and the close of the 1st required tax year. For example, if you elected to retain a tax year beginning 7-1-87 and ending 6-30-88 and your required tax year was a calendar tax year, the deferral period would be 6 months (the number of months between 6-30-87 and 12-31-87).

If you are electing to **adopt or change** a tax year, the term "DEFERRAL PERIOD" means the months that occur after the end of the elected tax year and before the close of the 1st required tax year. For example, if you elect to adopt a tax year ending September 30, 1988, and your required tax year is a calendar tax year, the deferral period would be 3 months (the number of months between 9-30-88 and 12-31-88).

See section 444(b) and related temporary regulations for additional information on the above rules.

Line 6.—Lines 6a and 6b refer to applicable amounts as defined in section 280H(f). See regulations under section 280H for additional information.

For purposes of line 6b, enter the applicable amount that the PSC reasonably expects to pay for the year based on what it has paid so far, its history of payment in the preceding tax year, and other anticipated facts and circumstances. If the PSC's 1987 tax year has ended before it files Form 8716, enter in 6b the applicable amount actually paid for the tax year.

Name	Identifying number
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Computation Schedule for Required Payment Under Section 7519—Attach to Second Quarter 1988 Form 720

Note: Entities with base years of less than 12 months must make modifications to the schedule and should see the Temporary Regulations under section 7519 for additional information on computing the required payment.		
1 Net income for base year (section 7519(d)) (not less than zero)	1	
2 Applicable payments (section 7519(d)) made during base year	2	
3 Base year deferral ratio (number of months in deferral period over number of months in tax year) expressed as a percentage	3	%
4 Line 1 times line 3	4	
5 Line 2 times line 3	5	
6 Applicable payments made during the deferral period of the base year	6	
7 Line 5 less line 6 (but not less than zero)	7	
8 Net base year income—Add lines 4 and 7	8	
9 Enter the adjusted highest section 1 tax rate percentage (for applicable election years beginning in 1987, the percentage is 36%)	9	%
10 Applicable percentage (for applicable election years beginning in 1987, the percentage is 25%)	10	%
11 Line 9 times line 10	11	%
12 Applicable election year required payment—Line 8 times line 11. If this amount is more than \$500, enter here and on Form 720, IRS No. 11. If the amount is \$500 or less, enter here and enter zero on Form 720, IRS No. 11. Attach the computation schedule to Form 720. (See instructions for Form 720.)	12	

Additional Information.—The above schedule is based on section 7519 provisions. Section 444(c) states that a partnership or S corporation making a section 444 election shall make the payments required by section 7519. For more information on figuring and making the required payment, see the Instructions for the Second Quarter 1988 Form 720 and Temporary Regulations under sections 7519 and 444 .

Name _____

Identifying number _____

Computation Schedule for Section 280H Limitations for Personal Service Corporation (PSC)

Attach schedule to applicable Form 1120 series form if Part II is completed.

Part I Minimum Distribution Requirement Under Section 280H(c)(1)

Note: Entities with base years of less than 12 months must make modifications to the schedule and should see the Temporary Regulations under section 280H for additional information on computing the section 280H limitations.

1	Enter applicable amount (section 280H(f)(1)) 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 and enter percentage amount	2		%
3	Section 280H(c)(1)(A) minimum distribution—Multiply line 1 times line 2 and enter here	3		
4	Enter applicable amount from the deferral period of the applicable election tax year If line 4 is equal to or greater than line 3, the PSC has met the minimum distribution requirement. If so, stop here. If line 4 is less than line 3, continue computation.)	4		
5	Enter applicable amount from:	5a		
a	1st tax year before applicable election tax year	5a		
b	2nd tax year before applicable election tax year	5b		
c	3rd tax year before applicable election tax year	5c		
6	Total—Add lines 5a, 5b, and 5c	6		
7	Enter PSC's adjusted taxable income (section 280H(f)(4)):	7a		
a	For 1st tax year before applicable election tax year	7a		
b	For 2nd tax year before applicable election tax year	7b		
c	For 3rd tax year before applicable election tax year	7c		
8	Total—Add lines 7a, 7b, and 7c	8		
9	Tentative applicable percentage—Divide line 6 by line 8	9		%
10	Applicable percentage—Enter the lesser of line 9 or 95%	10		%
11	Enter adjusted taxable income (section 280H(f)(4)) for the deferral period of the applicable election tax year	11		
12	Section 280H(c)(1)(B) limitation—Line 11 times line 10	12		
13	Section 280H(c)(1) limitation—Enter lesser of line 3 or line 12 If line 4 is equal to or more than line 13, the PSC has met the minimum distribution requirement. If so, stop here. The section 280H limitation does not apply to the PSC. If line 4 is less than line 13, the PSC must limit its deduction for applicable amounts to employee-owners to the maximum deductible amount figured in Part II below. Complete Part II to figure the limitation.	13		

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

14	Enter amount from line 4	14		
15	Enter number of months in deferral period of applicable election tax year	15		
16	Divide line 14 by line 15	16		
17	Nondeferral period—Number of months in applicable tax year less number of months in the deferral period	17		
18	Multiply line 16 by line 17	18		
19	Maximum deductible amount under section 280H(d)—Add lines 14 and 18. (The PSC's deduction(s) for applicable amounts to owner-employees is limited to this amount. If Part II is completed, attach the schedule to Form 1120 or 1120A.)	19		

Additional Information.—The above schedule is based on section 280H provisions. Section 444(c) states that a personal service corporation making a section 444 election shall be subject to the deduction limitations of section 280H. For more information on the section 280H limitations, see section 280H and Temporary Regulations under sections 280H and 444.