

Internal Revenue Service, Treasury

§ 1.280H-1T

January 1, 2004. Taxpayers may rely on these regulations after August 4, 2003, for the treatment of any parachute payment.

[T.D. 9083, 68 FR 45750, Aug. 4, 2003; T.D. 9083, 68 FR 59114, Oct. 14, 2003]

§ 1.280H-0T Table of contents (temporary).

This section lists the captions that appear in the temporary regulations under section 280H.

§ 1.280H-1T Limitation on certain amounts paid to employee-owners by personal service corporations electing alternative taxable years (temporary).

- (a) Introduction.
- (b) Limitations on certain deductions of a personal service corporation.
 - (1) In general.
 - (2) Carryover of nondeductible amounts.
 - (3) Disallowance inapplicable for certain purposes.
 - (4) Definition of applicable amount.
 - (i) In general.
 - (ii) Special rule for certain indirect payments.
 - (iii) Examples.
 - (c) Minimum distribution requirement.
 - (1) Determination of whether requirement satisfied.
 - (i) In general.
 - (ii) Employee-owner defined.
 - (2) Preceding year test.
 - (i) In general.
 - (ii) Example.
 - (3) 3-year average test.
 - (i) In general.
 - (ii) Applicable percentage.
 - (iii) Adjusted taxable income.
 - (A) In general.
 - (B) Determination of adjusted taxable income for the deferral period of the applicable election year.
 - (C) NOL carryovers.
 - (D) Examples.
 - (d) Maximum deductible amount.
 - (1) In general.
 - (2) Example.
 - (e) Special rules and definition.
 - (1) Newly organized personal service corporations.
 - (2) Existing corporations that become personal service corporations.
 - (3) Disallowance of NOL carryback.
 - (4) Deferral period.

- (5) Examples.
- (f) Effective date.

[T.D. 8205, 53 FR 19711, May 27, 1988]

§ 1.280H-1T Limitation on certain amounts paid to employee-owners by personal service corporations electing alternative taxable years (temporary).

(a) *Introduction.* This section applies to any taxable year that a personal service corporation has a section 444 election in effect (an “applicable election year”). For purposes of this section, the term *personal service corporation* has the same meaning given such term in § 1.441-3(c).

(b) *Limitation on certain deductions of personal service corporations—(1) In general.* If, for any applicable election year, a personal service corporation does not satisfy the minimum distribution requirement in paragraph (c) of this section, the deduction otherwise allowable under chapter 1 of the Internal Revenue Code of 1986 (the Code) for applicable amounts, as defined in paragraph (b)(4) of this section, shall not exceed the maximum deductible amount, as defined in paragraph (d) of this section.

(2) *Carryover of nondeductible amounts.* Any amount not allowed as a deduction in an applicable election year under paragraph (b)(1) of this section shall be allowed as a deduction in the succeeding taxable year.

(3) *Disallowance inapplicable for certain purposes.* The disallowance of deductions under paragraph (b)(1) of this section shall not apply for purposes of subchapter G of chapter 1 of the Code (relating to corporations used to avoid income tax on shareholders) nor for determining whether the compensation of employee-owners is reasonable. Thus, for example, in determining whether a personal service corporation is subject to the accumulated earnings tax imposed by section 531, deductions disallowed under paragraph (b)(1) of this section are treated as allowed in computing accumulated taxable income.

(4) *Definition of applicable amount—(i) In general.* For purposes of section 280H and the regulations thereunder, the term *applicable amount* means, with respect to a taxable year, any amount