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CCA 201349013

ISSUES

Do payments made by a taxpayer in the course of his or her trade or business to a veterinarian operating as a corporation have to be reported to the IRS under Internal Revenue Code ("IRC" or "Code") § 6041?

CONCLUSIONS

Generally, yes. Payments made by a taxpayer in the course of the taxpayer's trade or business to an incorporated veterinarian must be reported to the IRS to the extent the payments aggregate to \$600 or more per year. Incorporated veterinarians are not exempted from the reporting requirement by Treas. Reg. § 1.6041-3(p)(1) because veterinarians are "engaged in providing medical and healthcare services" for the purposes of Treas. Reg. § 1.6041-3(p)(1).

BACKGROUND

Section 6041 of the Code generally requires taxpayers to file annual information returns for payments made in the course of the taxpayer's trade or business, to the extent those payments amount to \$600 or more in aggregate. 1 In order to be subject to § 6041 reporting, two initial criteria must exist. First, the payment must be reported if it is made in the course of the taxpayer's trade or business, and second, the sum of the payments made to the payee must amount to \$600 or more in that year.

Many payments to veterinarians will not be subject to § 6041 reporting because they are either not made in the course of the taxpayer's trade or business, or because they do not amount to \$600 in a given year. For instance, a payment to a veterinarian to vaccinate the family pet is probably not subject to § 6041 reporting because it is not made in the course of a trade or business. However, there are many other instances where veterinarian services are procured for animals used in the course of a taxpayer's trade or business and will exceed \$600 a year. Examples of a trade or business that might utilize veterinary services include animal farmers, ranchers, zoos, pet shops, etc. Payments made to veterinarians in the course of the taxpayer's trade or business which amount to \$600 or more in a given year are subject to information reporting under § 6041, unless an exception applies.

Treasury Regulation § 1.6041-3 provides several exceptions from information reporting under § 6041 for certain types of payments. In particular, Treas. Reg. § 1.6041-3(p) provides exceptions for payments made to certain payees, such as certain corporations, tax exempt entities, and government entities. Under Treas. Reg. § 1.6041-3(p)(1), payments made to corporations described in Treas. Reg. § 1.6049-4(c)(1)(ii)(A) are generally exempted from the reporting requirement. However, under Treas. Reg. § 1.6041-3(p)(1) corporations "engaged in providing medical and healthcare services" are not exempted from the reporting requirement. Veterinary practices are operated through many types of business entity including corporations.

The analysis below addresses whether the exception for payments to corporate payees should apply to otherwise reportable payments made to a corporation providing veterinary services.

LAW AND ANALYSIS

To determine whether a corporation that renders veterinary services is an excepted payee under Treas. Reg. § 1.6041-3(p)(1), we must determine whether a veterinarian is "engaged in providing medical and healthcare services" for purposes of Treas. Reg. § 1.6041-3(p)(1). 2

The words "medical" and "healthcare" typically refer broadly to the prevention, diagnosis, treatment, and management of disease, illness, or injury by a professional. See, e.g. American Heritage Dictionary of the English Language (Houghton Mifflin Harcourt Publ'g Co., 5th ed. 2011) (defining "medical" as "of or relating to the study or practice of medicine," defining "medicine" as "the science and art of diagnosing and treating disease or injury and maintaining health," and defining "healthcare" as "the prevention, treatment, and management of illness and the preservation of mental and physical well-being through the services offered by the medical and allied health professions"). The language of Treas. Reg. § 1.6041-3(p)(1) does not restrict the terms "medical" or "healthcare" to services performed on humans.

The common definition of "veterinarian" is a professional engaged in the prevention, diagnosis, and treatment of animal diseases and injuries. See e.g., *Id.* (defining a veterinarian as "a person who practices a branch of medicine that deals with the causes, diagnosis, and treatment of diseases and injuries of animals, especially domestic animals."); BUREAU OF LABOR STATISTICS, U.S. DEPARTMENT OF LABOR, Occupational Outlook Handbook: Veterinarians (2012-13 Edition) available at <http://www.bls.gov/ooh/healthcare/veterinarians.htm> (listing veterinarians under "healthcare" and defining a veterinarian as someone whose profession it is to "diagnose, treat, or research diseases and injuries of animals."). Reading these definitions together, a veterinarian's services squarely fall within the scope of what are generally considered medical and healthcare services.

Congress and the IRS have historically included veterinarians in the field of medical and healthcare services, and specifically excluded veterinarians when exclusion was intended. For example, in Rev. Rul. 91-30 the IRS determined that veterinarians are in the "field of health" and should be included within the meaning of "similar healthcare providers" akin to doctors, nurses, and dentists, for purposes of defining a Personal Service Corporation. As an example where Congress intended to exclude veterinarians from a consideration of what is considered "medical, Congress specifically limited the definition of "medical device" in IRC § 4191(b)(1) to devices "intended for humans." Under Treas. Reg. § 1.6041-3(p)(1) the language does not limit the terms "medical" or "healthcare" to services intended to treat humans. Accordingly, we conclude that a corporation providing veterinary services is "engaged in providing medical and healthcare services," for purposes of Treas. Reg. § 1.6041-3(p)(1), and is therefore not excepted from the information reporting requirement of IRC § 6041 as a corporate payee.

CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS

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1 Our analysis turns on our interpretation of Treas. Reg. § 1.6041-3 which applies equally to both §§ 6041 and 6041A. See IRS Notice 2001-38 (stating that Treas. Reg. § 1.6041-3 also applies to IRC § 6041A); see also proposed Treas. Reg. § 1.6041A-1(d) (proposed January 7, 1986). Therefore, the analysis applies equally to information reporting required under either IRC § 6041 or 6041A.

2 Note that this analysis is limited to the applicability of the general corporate exception; a veterinarian corporation may still be an exempt payee under a different exception.