



deduct the amount of such liability for taxable years beginning before 1974. §1.461-1. (Sec. 461, '86 Code.)

Rev. Rul. 75-224, 1975-1 C.B. 146.

**496.3 Accrual; deduction in wrong year.** A deduction by an accrual basis taxpayer for vacation pay which accrued in 1952 is not allowable as a deduction for 1953 when paid. Since a credit or refund attributable to the deduction for vacation pay accrued in 1952 was not barred at the time such deduction was originally claimed in 1953, an adjustment for 1952 is permissible, even though such adjustment results in a pyramiding of vacation pay deductions in 1952, one on the cash method attributable to 1951 and one on the accrual method. Clarified by Rev. Rul. 59-285 with respect to a change in accounting period. §§1.1312-4, 1.1314(c)-1. (Secs. 1312, 1314; '86 Code.)

Rev. Rul. 58-24, 1958-1 C.B. 318.

**496.4 Accrual; deduction in year paid.** Accrual basis taxpayers who deduct vacation pay in the year paid, rather than in the year accrued, must continue on that basis until a completely vested vacation pay plan has been adopted which meets the requirements of Rev. Rul. 54-608. However, when such plan is adopted, the amount paid for the prior taxable year and the amount accrued for the current year may be deducted in the year the plan is adopted. §1.461-1. (Sec. 461, '86 Code.)

Rev. Rul. 58-340, 1958-2 C.B. 174.

**496.5 Accrual; extended vacation.** As a supplement to its regular vacation plan, a corporation adopted an extended vacation plan, which entitled qualified employees to thirteen weeks of vacation pay once in each five-year period. *Held*, the extended vacation plan was not a deferred compensation plan within the meaning of section 404(a) and the corporation could accrue anti deduct the expenses of the extended vacation plan, under section 162, as the employees became entitled to the extended vacation. (Secs. 162, 404; '86 Code.)

Latrobe Steel Co., 62 T.C. 456, Nonacq., 1976-2 C.B. 3.

**496.6 Accrual; unilateral contract.** In accruing vacation pay, no distinction is to be made between a vacation plan based on a written contract and such a plan based on a unilateral contract which provides the employee with a vested right to the unused vacation pay, where the plan or policy is communicated to the employee involved before the beginning of the vacation year and which meets the requirements of Rev. Rul. 54-608. (Sec. 461, '86 Code.)

Rev. Rul. 58-18, 1958-1 C.B. 237.

**496.7 Change of accounting method.** The Tax Reform Act of 1984 amended section 404(b) of the Code to clarify that any plan, method, or arrangement providing deferred benefits (including deferred vacation pay) is a plan, method, or arrangement deferring the receipt of compensation. Rev. Proc. 82-32 obsolete. §1.162-10. (Sec. 601.204, S.P.R.; Secs. 162, 404, 463, '86 Code.)

Rev. Proc. 86-20, 1986-1 C.B. 560.

**496.8 Change of accounting method; election.** Expedient approval provisions are provided for a taxpayer that desires to make a section 463 election under section 91(i) of the Tax Reform Act of 1984 as modified and extended by section 1851(b)(1) of the Tax Reform of 1986 and for a taxpayer that made a valid section 463 election under section 91(i) of the Tax Reform Act of 1984 that desires to treat the election as a change in method of accounting in accordance with section 1851(b)(1)(A) of the Tax Reform Act of 1986. §§1.162-1, 1.404(a)-1, 1.463-1T, 1.481-1, 10.2.

(Sec. 601.601, S.P.R.; Secs. 162, 404, 446, 463, 481, '86 Code.)

Rev. Proc. 87-55, 1987-2 C.B. 671.

**496.9 Employee working on employer's own construction projects.** An amount of vacation pay for taxpayer's employees that is attributable to employment on construction projects in its expansion program is not a deductible business expense; such vacation pay represents a capital expenditure, includable as part of the cost of the construction project. §§1.162-10, 1.263(a)-1. (Secs. 162, 263; '86 Code.)

Rev. Rul. 67-75, 1967-1 C.B. 41.

**496.10 Employees' trust fund; payments by employer.** Amounts paid by an employer to a trust forming a part of his employees' vacation plan, where such amounts are constructive payments of compensation and thus employee contributions, are deductible under section 162 and not under section 404(a)(5). These amounts are taxable to the employees for the taxable year in which paid to the trust and are subject to employment taxes at the time paid into the trust. Rev. Rul. 57-316, relating to employment taxes, distinguished. §§1.61-2, 1.162-10. (Secs. 61, 162; '86 Code.)

Rev. Rul. 67-351, 1967-2 C.B. 86.

**496.11 Lump sum payment; accrued leave; Federal employees.** Lump sum payments received by a Federal Government employee for accumulated and current accrued annual or vacation leave upon separation from government service, irrespective of whether such individual resigns or retires and receives a disability annuity, are not payments for personal injuries or sickness under a wage continuation plan excludable from gross income. Rev. Rul. 55-85 distinguished. (Sec. 105, '86 Code.)

Rev. Rul. 58-178, 1958-1 C.B. 51.

**496.12 Supplement to sick pay.** Wages or payments in lieu of wages received by an employee from an employer for a period of absence from work because of illness are, under certain circumstances, wage continuation plan benefits excludable under section 105(d), even though the absence during a portion of the period was reflected on the employer's record as vacation leave. Distinguished by Rev. Rul. 65-194 with respect to employment taxes. §1.105-4 (Sec. 105, '86 Code.)

Rev. Rul. 57-384, 1957-2 C.B. 100.

**496.13 Wage continuation; wages paid to estate.** That portion of the monthly salary paid for the period up to the decedent's death that represents sick pay is not income in respect of a decedent nor is it taxable income in the hands of the recipient. However, that portion that is not excludable sick pay is income in respect of a decedent, and taxable to the recipient. The portion of the monthly salary paid for the period after the decedent's death qualified as a death benefit and, since it does not exceed \$5,000, is excludable from the recipient's gross income. A beneficiary acquiring the right from a decedent to receive the vacation allowances is required to include the amount thereof in income for the period in which received. §§1.105-4, 1.691(a)-1. (Secs. 105, 691; '86 Code.)

Rev. Rul. 59-64, 1959-1 C.B. 31.

## Vacation pay

**496.1 Accrual.** No accrual of vacation pay can take place until the fact of liability to a specified employee has been clearly established and the amount of the liability to each individual employee is capable of computation with reasonable accuracy. No distinction is to be made between plans under written contracts and plans under oral agreements. Applicable to taxable years ending on or after June 30, 1955. I.T. 3956 revoked. The applicable date was extended by Rev. Ruls. 55-426, 56-315, and 57-28. Further, Rev. Rul. 57-325 stated there would be no further extensions except with respect to amounts paid pursuant to labor union agreements in effect on June 30, 1957, which expire after December 31, 1958; however, extended by Public Laws. §39.43-2. (Sec. 43, '39 Code; Sec. 461, '86 Code.)

Rev. Rul. 54-608, 1954-2 C.B. 8; Rev. Rul. 55-426, 1955-1 C.B. 68; Rev. Rul. 56-315, 1956-2 C.B. 304; Rev. Rul. 57-28, 1957-1 C.B. 624.

**496.2 Accrual.** A corporation organized in 1962 that has consistently accrued its estimated liability under an employee vacation plan not providing vested rights for each employee may not