

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.

(Also Part I, §§ 62, 162, 274; 1.62-2, 1.162-17, 1.274-5T, 1.274(d)-1.)

Rev. Proc. 97-45

SECTION 1. PURPOSE

This revenue procedure provides optional rules under which an employee of a

federal government agency who is reimbursed for ordinary and necessary business expenses relating to travel, entertainment, gifts, or listed property (such as an employee's automobile) may make an adequate accounting to the employer to substantiate those expenses (under §§ 1.274-5T(f)(2) and (4)(ii) of the temporary Income Tax Regulations) by submitting an account book, diary, log, etc., alone, without submitting documentary evidence such as receipts. These rules generally apply to employees of the executive and judicial branches, and certain employees of the legislative branch, of the federal government.

SECTION 2. BACKGROUND

.01 Section 162(a) of the Internal Revenue Code allows a deduction for all ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including traveling expenses (including amounts expended for meals and lodging) while away from home in pursuit of a trade or business.

.02 Section 1.62-2(c)(2) provides that reimbursements by an employer to an employee for business expenses paid or incurred by the employee are paid under an "accountable plan" if the reimbursement arrangement meets the requirements of business purpose, substantiation, and returning amounts in excess of expenses. Amounts failing to meet these requirements are treated as paid under a nonaccountable plan. Section 1.62-2(c)(3).

.03 Amounts treated as paid under an accountable plan are excluded from the employee's gross income, are not reported as wages or other compensation on the employee's Form W-2, and are exempt from the withholding and payment of employment taxes. Section 1.62-2(c)(4). Conversely, amounts treated as paid under a nonaccountable plan are included in the employee's gross income, must be reported as wages or other compensation on the employee's Form W-2, and are subject to the withholding and payment of employment taxes. Section 1.62-2(c)(5).

.04 An employee may satisfy the substantiation requirement of a § 1.62-2(c)(2) accountable plan by substantiating the expenses to the employer in accordance with § 274(d) and the regulations thereunder. Section 1.62-2(e)(2).

.05 Section 274(d) disallows a deduction under § 162 for any travel (including meals and lodging), entertainment, gift, or listed property expense, unless the taxpayer substantiates the elements of the expense by adequate records or by sufficient evidence.

.06 Under § 1.274-5T(c)(2), a taxpayer must maintain two types of records to satisfy the "adequate records" requirement: (1) a summary of expenses (account book, diary, log, statement of expense, trip sheets, or similar record) made at or near the time the expenses are incurred (as provided in § 1.274-5T(c)(2)(ii)), and (2) documentary evidence (such as receipts, paid bills, or similar evidence as provided in § 1.274-5T(c)(2)(iii)). Section 1.274-5T(c)(2)(iii) generally requires that a taxpayer have documentary evidence to substantiate (A) any expenditure for lodging, and (B) any other expenditure of \$75 or more (\$25 or more for expenses paid or incurred before October 1, 1995). Together, these records must establish the elements of amount, time, place, and business purpose (and, for gifts and entertainment, business relationship of the recipient or persons entertained) for each expenditure or use. Section 1.274-5T(b).

.07 Section 1.274-5T(f)(4)(i) requires an employee substantiating expenses (or making an "adequate accounting" of expenses) to the employer to submit to the employer records that satisfy the "adequate records" requirements of § 1.274-5T(c)(2). However, § 1.274-5T(f)(4)(ii) provides that the Commissioner may prescribe rules under which an employee may make an adequate accounting to the employer by submitting an account book, diary, log, etc., alone, without submitting documentary evidence.

SECTION 3. SCOPE

This revenue procedure provides rules pursuant to § 1.274-5T(f)(4)(ii) under which an employee of a federal government agency may make an adequate accounting to the employer to substantiate the employee's expenses for travel, entertainment, gifts, or listed property, by submitting an account book, diary, log, statement of expense, trip sheet, or similar record, without submitting documentary evidence.

SECTION 4. DEFINITIONS

.01 *Documentary evidence.* The term "documentary evidence" means receipts, paid bills, or similar evidence (whether on

paper or in electronic form) sufficient to support an expenditure (as provided in § 1.274-5T(c)(2)(iii)).

.02 *Employee.* The term "employee" has the same meaning as in 5 U.S.C. § 5701(2). The term "employee" also includes members of the uniformed services (as defined in 37 U.S.C. § 101(3)) and members of the Foreign Service (as defined in 22 U.S.C. § 3903).

.03 *Employer.* The term "employer" means a federal government agency (within the meaning of section 4.06 of this revenue procedure) that reimburses its employees under a reimbursement arrangement for their expenses for travel, entertainment, gifts, or listed property.

.04 *Expenses or expenditures.* The terms "expenses" or "expenditures" mean expenses under § 274(d) for travel (including meals and lodging away from home), entertainment, gifts, or listed property, incurred by an employee in connection with the performance of services as an employee.

.05 *Expense voucher.* The term "expense voucher" means an account book, diary, log, statement of expense, trip sheet, or similar record (within the meaning of § 1.274-5T(c)(2)(ii), and whether on paper or in electronic form).

.06 *Federal government agency.* The term "federal government agency" has the same meaning as "agency" in 5 U.S.C. § 5701(1).

.07 *Reimbursement.* The term "reimbursement" includes advances, reimbursements, or allowances for expenses.

SECTION 5. APPLICATION

.01 *In general.* An employee of a federal government agency may make an adequate accounting to the employer to substantiate the employee's expenses (under §§ 1.274-5T(f)(2) and (4)(ii)) without submitting documentary evidence, provided the employer makes the reimbursement pursuant to a written policy that includes all the procedures set forth in section 5.02 of this revenue procedure. An adequate accounting made pursuant to these procedures satisfies the substantiation requirements applicable to accountable plans under § 1.62-2(c)(2). However, an employer must comply with the other requirements of § 1.62-2 in order to treat reimbursements as paid under an accountable plan.

.02 Required procedures

(1) The types and amounts of expenses paid or incurred by the employee, or to be paid or incurred by the employee, must be approved by an appropriate official of the employer (who is not the employee incurring the expenses), either in advance of, or after, the employee pays or incurs the expenses.

(2) Within a reasonable time after paying or incurring the expenses, the employee must submit to the employer an expense voucher sufficient to establish the elements of amount, time, place, and business purpose (and, for gifts and entertainment, business relationship of the recipient or persons entertained) for each expenditure or use.

(3) Except as provided in Rev. Proc. 96-63, 1996-2 C.B. 420, or Rev. Proc. 96-64, 1996-2 C.B. 427, or any successors, the employee must obtain and retain for a period of four years after submitting

the expense voucher, documentary evidence for (a) expenditures of \$75 or more, and (b) all expenditures for lodging, and produce the documentary evidence when requested by the employer or the Service. The employer must timely inform an employee receiving reimbursements of these requirements.

(4) The employer must conduct periodic audits of a representative sample of the expense vouchers submitted (including related documentary evidence), selected on a statistically sound basis. Compliance with the applicable requirements of the General Accounting Office is sufficient.

(5) The employer must either (a) collect from an employee any amount discovered on audit or otherwise to have been reimbursed in excess of the amount supported by the documentary evidence required under section 5.02(3) of this revenue procedure, or (b) treat such excess as

paid under a nonaccountable plan.

(6) The employer's policy and procedures (including audit procedures) for reimbursing employees for expenses must be subject to review by an independent government authority (such as its Inspector General or the General Accounting Office).

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective October 1, 1997.

DRAFTING INFORMATION

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