

INTERNAL REVENUE BULLETIN



HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

ADMINISTRATIVE

Rev. Proc. 2019-48, page 1392.

Rev. Proc. 2019-48 modifies Rev. Proc. 2011-47 to reflect certain changes enacted by the TCJA, most notably, the temporary suspension of the miscellaneous itemized deduction. Unreimbursed employee travel expenses that are miscellaneous itemized deductions are not permitted during taxable years when the miscellaneous itemized deduction is suspended. Rev. Proc. 2019-48 provides optional rules for deemed substantiation of the amount of certain business expenses of traveling away from home reimbursed to an employee or deductible by certain specified employees or self-employed individuals.

INCOME TAX

Rev. Rul. 2019-27, page 1378.

Section 995 - Taxation of DISC Income to Shareholders 2019 Base Period T-Bill Rate. The "base period T-bill rate" for the

Bulletin No. 2019-51
December 16, 2019

period ending September 30, 2019, is published as required by section 995(f) of the Internal Revenue Code.

SPECIAL ANNOUNCEMENT

Notice 2019-63, page 1390.

This notice extends the due dates for certain 2019 information reporting requirements for insurers, self-insuring employers, and certain other providers of minimum essential coverage under section 6055 and for applicable large employers under section 6056. Specifically, this notice extends the due date for furnishing to individuals the 2019 Form 1095-B, Health Coverage, and the 2019 Form 1095-C, Employer-Provided Health Insurance Offer and Coverage, from January 31, 2020, to March 2, 2020. Additionally, this notice provides that the Service will not impose a penalty under section 6722 against reporting entities for failing to furnish a Form 1095-B to responsible individuals if two conditions are met. This notice also extends transitional good-faith relief from section 6721 and 6722 penalties to the 2019 information reporting requirements under sections 6055 and 6056.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned

against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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Part I

Section 995.—Taxation of DISC Income to Shareholders

2019 Base Period T-Bill Rate. The “base period T-bill rate” for the period ending September 30, 2019, is published as required by section 995(f) of the Internal Revenue Code.

Rev. Rul. 2019-27

Section 995(f)(1) of the Internal Revenue Code provides that a shareholder of a domestic international sales corporation (“DISC”) shall pay interest each taxable year in an amount equal to the product of the “shareholder’s DISC-related deferred tax liability” for the year (as defined in section 995(f)(2)) and the “base period T-bill rate.” Under section 995(f)(4), the base period T-bill rate is the annual rate of interest determined by the Secretary to be equivalent to the average of the 1-year constant maturity Treasury yields,

as published by the Board of Governors of the Federal Reserve System, for the 1-year period ending on September 30 of the calendar year ending with (or of the most recent calendar year ending before) the close of the taxable year of the shareholder.

The base period T-bill rate for the period ending September 30, 2019, is 2.32 percent.

Pursuant to section 6622 of the Internal Revenue Code, interest must be compounded daily. The table below provides factors for compounding the 2019 base period T-bill rate daily for any number of days in the shareholder’s taxable year (including for a 52-53 week accounting period). To compute the amount of the interest charge for the shareholder’s taxable year, multiply the amount of the shareholder’s DISC-related deferred tax liability for that year by the base period T-bill rate factor corresponding to the number of days in the shareholder’s taxable year for which the interest charge is being computed. Generally, one would use the factor for

365 days. One would use a different factor only if the shareholder’s taxable year for which the interest charge is being determined is a short taxable year, if the shareholder uses a 52-53 week taxable year, or if the shareholder’s taxable year is a leap year.

For the base period T-bill rates for periods ending in prior years, see Rev. Rul. 2018-31, 2018-50 I.R.B. 848; Rev. Rul. 2017-23, 2017-49 I.R.B. 546; Rev. Rul. 2017-01, 2017-03 I.R.B. 377; Rev. Rul. 2015-26, 2015-49 I.R.B. 696; Rev. Rul. 2014-33, 2014-52 I.R.B. 957; Rev. Rul. 2013-24, 2013-49 I.R.B. 594; Rev. Rul. 2012-22, 2012-48 I.R.B. 565; and Rev. Rul. 2011-30, 2011-49 I.R.B. 826.

DRAFTING INFORMATION

The principal author of this revenue ruling is Kristina L. Novak of the Office of Associate Chief Counsel (International). For further information regarding the revenue ruling, contact Ms. Novak at (202) 317-3800 (not a toll-free number).

ANNUAL RATE, COMPOUNDED DAILY
2.32 PERCENT

DAYS	FACTOR
1	0.000063562
2	0.000127127
3	0.000190697
4	0.000254271
5	0.000317849
6	0.000381430
7	0.000445016
8	0.000508606
9	0.000572200
10	0.000635798
11	0.000699400
12	0.000763006
13	0.000826617
14	0.000890231
15	0.000953849
16	0.001017471
17	0.001081098
18	0.001144728
19	0.001208362
20	0.001272001
21	0.001335643
22	0.001399290
23	0.001462940
24	0.001526595
25	0.001590254
26	0.001653916
27	0.001717583
28	0.001781254
29	0.001844929
30	0.001908608
31	0.001972291
32	0.002035978
33	0.002099669
34	0.002163364
35	0.002227063

ANNUAL RATE, COMPOUNDED DAILY
2.32 PERCENT

DAYS	FACTOR
36	0.002290766
37	0.002354474
38	0.002418185
39	0.002481900
40	0.002545620
41	0.002609343
42	0.002673071
43	0.002736802
44	0.002800538
45	0.002864277
46	0.002928021
47	0.002991769
48	0.003055521
49	0.003119276
50	0.003183036
51	0.003246800
52	0.003310568
53	0.003374340
54	0.003438116
55	0.003501897
56	0.003565681
57	0.003629469
58	0.003693262
59	0.003757058
60	0.003820858
61	0.003884663
62	0.003948471
63	0.004012284
64	0.004076101
65	0.004139921
66	0.004203746
67	0.004267575
68	0.004331408
69	0.004395245
70	0.004459086

ANNUAL RATE, COMPOUNDED DAILY
2.32 PERCENT

DAYS	FACTOR
71	0.004522931
72	0.004586780
73	0.004650633
74	0.004714491
75	0.004778352
76	0.004842217
77	0.004906087
78	0.004969960
79	0.005033838
80	0.005097719
81	0.005161605
82	0.005225495
83	0.005289388
84	0.005353286
85	0.005417188
86	0.005481094
87	0.005545004
88	0.005608918
89	0.005672836
90	0.005736759
91	0.005800685
92	0.005864615
93	0.005928550
94	0.005992488
95	0.006056431
96	0.006120377
97	0.006184328
98	0.006248283
99	0.006312242
100	0.006376204
101	0.006440171
102	0.006504142
103	0.006568117
104	0.006632096
105	0.006696080

ANNUAL RATE, COMPOUNDED DAILY
2.32 PERCENT

DAYS	FACTOR
106	0.006760067
107	0.006824058
108	0.006888054
109	0.006952053
110	0.007016057
111	0.007080064
112	0.007144076
113	0.007208092
114	0.007272111
115	0.007336135
116	0.007400163
117	0.007464195
118	0.007528231
119	0.007592271
120	0.007656316
121	0.007720364
122	0.007784416
123	0.007848473
124	0.007912533
125	0.007976598
126	0.008040667
127	0.008104739
128	0.008168816
129	0.008232897
130	0.008296982
131	0.008361071
132	0.008425164
133	0.008489261
134	0.008553362
135	0.008617468
136	0.008681577
137	0.008745690
138	0.008809808
139	0.008873930
140	0.008938055

ANNUAL RATE, COMPOUNDED DAILY
2.32 PERCENT

DAYS	FACTOR
141	0.009002185
142	0.009066319
143	0.009130457
144	0.009194599
145	0.009258745
146	0.009322895
147	0.009387049
148	0.009451208
149	0.009515370
150	0.009579536
151	0.009643707
152	0.009707882
153	0.009772060
154	0.009836243
155	0.009900430
156	0.009964621
157	0.010028816
158	0.010093015
159	0.010157218
160	0.010221425
161	0.010285637
162	0.010349852
163	0.010414072
164	0.010478295
165	0.010542523
166	0.010606755
167	0.010670990
168	0.010735230
169	0.010799474
170	0.010863722
171	0.010927975
172	0.010992231
173	0.011056491
174	0.011120756
175	0.011185024

ANNUAL RATE, COMPOUNDED DAILY
2.32 PERCENT

DAYS	FACTOR
176	0.011249297
177	0.011313573
178	0.011377854
179	0.011442139
180	0.011506428
181	0.011570721
182	0.011635018
183	0.011699319
184	0.011763624
185	0.011827934
186	0.011892247
187	0.011956565
188	0.012020886
189	0.012085212
190	0.012149542
191	0.012213876
192	0.012278214
193	0.012342556
194	0.012406902
195	0.012471252
196	0.012535606
197	0.012599965
198	0.012664327
199	0.012728694
200	0.012793065
201	0.012857440
202	0.012921818
203	0.012986201
204	0.013050588
205	0.013114980
206	0.013179375
207	0.013243774
208	0.013308178
209	0.013372585
210	0.013436997

ANNUAL RATE, COMPOUNDED DAILY
2.32 PERCENT

DAYS	FACTOR
211	0.013501413
212	0.013565832
213	0.013630256
214	0.013694684
215	0.013759116
216	0.013823553
217	0.013887993
218	0.013952437
219	0.014016886
220	0.014081338
221	0.014145795
222	0.014210256
223	0.014274721
224	0.014339190
225	0.014403663
226	0.014468140
227	0.014532621
228	0.014597106
229	0.014661596
230	0.014726089
231	0.014790587
232	0.014855089
233	0.014919595
234	0.014984105
235	0.015048619
236	0.015113137
237	0.015177659
238	0.015242186
239	0.015306716
240	0.015371251
241	0.015435789
242	0.015500332
243	0.015564879
244	0.015629430
245	0.015693985

ANNUAL RATE, COMPOUNDED DAILY
2.32 PERCENT

DAYS	FACTOR
246	0.015758544
247	0.015823107
248	0.015887675
249	0.015952246
250	0.016016822
251	0.016081402
252	0.016145985
253	0.016210573
254	0.016275165
255	0.016339761
256	0.016404362
257	0.016468966
258	0.016533574
259	0.016598187
260	0.016662804
261	0.016727424
262	0.016792049
263	0.016856678
264	0.016921311
265	0.016985948
266	0.017050590
267	0.017115235
268	0.017179885
269	0.017244538
270	0.017309196
271	0.017373858
272	0.017438524
273	0.017503194
274	0.017567868
275	0.017632546
276	0.017697229
277	0.017761915
278	0.017826606
279	0.017891301
280	0.017955999

ANNUAL RATE, COMPOUNDED DAILY
2.32 PERCENT

DAYS	FACTOR
281	0.018020702
282	0.018085410
283	0.018150121
284	0.018214836
285	0.018279555
286	0.018344279
287	0.018409007
288	0.018473738
289	0.018538474
290	0.018603214
291	0.018667958
292	0.018732706
293	0.018797459
294	0.018862215
295	0.018926976
296	0.018991740
297	0.019056509
298	0.019121282
299	0.019186059
300	0.019250840
301	0.019315626
302	0.019380415
303	0.019445208
304	0.019510006
305	0.019574808
306	0.019639614
307	0.019704424
308	0.019769238
309	0.019834056
310	0.019898878
311	0.019963705
312	0.020028535
313	0.020093370
314	0.020158209
315	0.020223052

ANNUAL RATE, COMPOUNDED DAILY
2.32 PERCENT

DAYS	FACTOR
316	0.020287899
317	0.020352750
318	0.020417605
319	0.020482465
320	0.020547328
321	0.020612196
322	0.020677068
323	0.020741944
324	0.020806824
325	0.020871708
326	0.020936596
327	0.021001488
328	0.021066385
329	0.021131286
330	0.021196190
331	0.021261099
332	0.021326012
333	0.021390930
334	0.021455851
335	0.021520776
336	0.021585706
337	0.021650639
338	0.021715577
339	0.021780519
340	0.021845465
341	0.021910415
342	0.021975370
343	0.022040328
344	0.022105291
345	0.022170257
346	0.022235228
347	0.022300203
348	0.022365182
349	0.022430165
350	0.022495153

ANNUAL RATE, COMPOUNDED DAILY
2.32 PERCENT

DAYS	FACTOR
351	0.022560144
352	0.022625140
353	0.022690140
354	0.022755143
355	0.022820151
356	0.022885164
357	0.022950180
358	0.023015200
359	0.023080225
360	0.023145253
361	0.023210286
362	0.023275323
363	0.023340364
364	0.023405409
365	0.023470459
366	0.023535512
367	0.023600570
368	0.023665632
369	0.023730697
370	0.023795767
371	0.023860842

Part III

Transition Relief Related to Health Coverage Reporting Required by I.R.C. Sections 6055 and 6056 for 2019

Notice 2019-63

PURPOSE

This notice extends the due date for certain 2019 information-reporting requirements under sections 6055 and 6056 of the Internal Revenue Code (Code) from January 31, 2020, to March 2, 2020. This notice also provides relief from section 6721 and 6722 penalties for certain aspects of the 2019 information-reporting requirements under sections 6055 and 6056.

BACKGROUND

Sections 6055 and 6056 were added to the Code by sections 1502 and 1514 of the Patient Protection and Affordable Care Act (ACA), enacted March 23, 2010, Pub. L. No. 111-148, 124 Stat. 119, 250, 256. Section 6055 requires health insurance issuers, self-insuring employers, government agencies, and other providers of minimum essential coverage to file and furnish annual information returns and statements regarding coverage provided. Section 6056 requires applicable large employers (generally those with 50 or more full-time employees, including full-time equivalent employees, in the previous year) to file and furnish annual information returns and statements relating to the health insurance, if any, that the employer offers to its full-time employees. Section 6056 was amended by sections 10106(g) and 10108(j) of the ACA and was further amended by section 1858(b)(5) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011, enacted April 15, 2011, Pub. L. No. 112-10, 125 Stat. 38, 169.

Section 36B, which was added to the Code by section 1401 of the ACA, provides a premium tax credit for eligible individuals who enroll in coverage through a Health Insurance Marketplace. Section 5000A, which was added to the Code by section 1501(b) of the ACA, generally provides that individuals must have minimum essential coverage, qualify for an exemption from the minimum essential coverage requirement, or make an individual shared responsibility payment when they file their federal income tax return. Section 11081 of Pub. L. No. 115-97, 131 Stat. 2054, 2092, enacted December 22, 2017, and commonly referred to as the Tax Cuts and Jobs Act, reduces the individual shared responsibility payment to zero for months beginning after December 31, 2018.

Section 6721 imposes a penalty for failing to timely file an information return or for filing an incorrect or incomplete information return. Section 6722 imposes a penalty for failing to timely furnish an information statement or for furnishing an incorrect or incomplete information statement. Section 6721 and 6722 penalties are imposed with regard to information returns and statements listed in section 6724(d), which includes those required by sections 6055 and 6056.

The regulations under section 6055 require every person that provides minimum essential coverage to an individual during a calendar year to file with the Internal Revenue Service (Service) an information return and a transmittal on or before the following February 28 (March 31 if filed electronically) and to furnish to the responsible individual identified on the return a written statement on or before January 31 following the calendar year to which the statement relates. *See* § 1.6055-1(f) and (g)(4) of the Income Tax Regulations; *see also* § 6055(c)(2). Except as provided in the following paragraph, the Service has designated Form 1094-B, *Transmittal of Health Coverage Information Returns*, and Form 1095-B, *Health*

Coverage, to meet the requirements of the section 6055 regulations.

The regulations under section 6056 require every applicable large employer or a member of an aggregated group that is determined to be an applicable large employer (ALE member) to file with the Service an information return and a transmittal on or before February 28 (March 31 if filed electronically) of the year following the calendar year to which it relates and to furnish to full-time employees a written statement on or before January 31 following the calendar year to which the statement relates. *See* § 301.6056-1(e) and (g) of the Procedure and Administration Regulations; *see also* § 6056(c)(2). The Service has designated Form 1094-C, *Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*, and Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage*, to meet the requirements of the section 6056 regulations. In addition, an ALE member that offers health coverage through a self-insured health plan must complete the reporting required under section 6055 (that is, information about each individual enrolled in the self-insured health plan) using Form 1095-C, Part III, rather than Form 1095-B.¹ ALE members use Form 1095-C, Part III to meet the section 6055 reporting requirement for all employees, but for employees who are not full-time, ALE members report only certain information to reflect that the Form 1095-C is being used to complete section 6055 reporting but not section 6056 reporting, which applies only to full-time employees.

The regulations under sections 6055 and 6056 allow the Service to grant an extension of time of up to 30 days to furnish Forms 1095-B and 1095-C for good cause shown. *See* §§ 1.6055-1(g)(4)(i)(B)(1) and 301.6056-1(g)(1)(ii)(A). In addition, filers of Forms 1095-B, 1094-C, and 1095-C may receive an automatic 30-day extension of time to file these forms with the Service by submitting Form 8809, *Appli-*

¹ See the Instructions for Forms 1094-C and 1095-C for the option to file Form 1094-B and Form 1095-B, rather than Form 1094-C and Form 1095-C, to report coverage of certain non-employees.

ation for Extension of Time To File Information Returns, on or before the due date for filing those forms. See §§ 1.6081-1 and 1.6081-8. In limited situations, filers who submit Form 8809 before the automatic 30-day extension period expires may also receive an additional 30-day extension of time to file Forms 1095-B, 1094-C, and 1095-C with the Service. See *id.*

The preambles to the section 6055 and 6056 regulations (T.D. 9660, 79 FR 13220, 2014-13 I.R.B. 842; T.D. 9661, 79 FR 13231, 2014-13 I.R.B. 855) provided that, for reporting of 2015 offers and coverage, the Service would not impose penalties under sections 6721 and 6722 on reporting entities that could show that they made good-faith efforts to comply with the information-reporting requirements. This relief applied only to furnishing and filing incorrect or incomplete information reported on a statement or return and not to a failure to timely furnish or file a statement or return. Notice 2015-87, 2015-52 I.R.B. 889, reiterated that relief, and Notice 2015-68, 2015-41 I.R.B. 547, provided additional information about that relief with regard to reporting under section 6055. The preambles also noted the general rule that, under section 6724 and the related regulations, the section 6721 and 6722 penalties may be waived if a failure to timely furnish or file a statement or return is due to reasonable cause.

Through a series of Internal Revenue Bulletin notices, the Service extended the due dates for information-reporting requirements under sections 6055 and 6056 for furnishing statements to individuals for the years 2015, 2016, 2017, and 2018. See Notice 2016-4, 2016-3 I.R.B. 279 (2015); Notice 2016-70, 2016-49 I.R.B. 784 (2016); Notice 2018-06, 2018-2 I.R.B. 300 (2017); Notice 2018-94, 2018-51 I.R.B. 1042 (2018). In these notices, in general,² the Service extended the furnishing due date for the Forms 1095-B and 1095-C by 30 days. Each notice also extended the good-faith transition relief from section 6721 and 6722 penalties to the information-reporting requirements under sections 6055 and 6056 for the years 2015, 2016, 2017, and 2018, respectively.

TRANSITION RELIEF

A. Extension of Due Date for Furnishing Information Statements to Individuals under Sections 6055 and 6056 for 2019

The Department of the Treasury (Treasury Department) and the Service have determined that a substantial number of employers, insurers, and other providers of minimum essential coverage need additional time beyond the January 31, 2020, due date to gather and analyze the information and prepare the 2019 Forms 1095-B and 1095-C to be furnished to individuals. Accordingly, this notice extends the due date for furnishing the 2019 Forms 1095-B and 1095-C, from January 31, 2020, to March 2, 2020.³ In view of this automatic extension to March 2, 2020, the provisions under §§ 1.6055-1(g)(4)(i)(B)(1) and 301.6056-1(g)(1)(ii)(A) allowing the Service to grant an extension of time of up to 30 days to furnish Forms 1095-B and 1095-C will not apply to the extended due date. Because the extension of the due date to furnish information statements to individuals granted in this notice applies automatically and is as generous as the permissive 30-day extension of time to furnish 2019 information statements under sections 6055 and 6056 that may be requested by some reporting entities in submissions to the Service, the Service will not formally respond to such requests. Notwithstanding the extension provided in this notice, employers and other coverage providers are encouraged to furnish 2019 statements as soon as they are able.

This notice does not extend the due date for filing with the Service the 2019 Forms 1094-B, 1095-B, 1094-C, or 1095-C. However, this notice does not affect the provisions regarding an automatic extension of time for filing information returns; the automatic extension remains available under the normal rules for employers and other coverage providers who submit a Form 8809 on or before the due date. See §§ 1.6081-1 and 1.6081-8. This notice also does not affect the provisions regarding additional extensions of time to file. See *id.*

B. Relief Regarding the Furnishing Requirement under Section 6055 for 2019

In Notice 2018-94, the Treasury Department and the Service stated that, because the individual shared responsibility payment is reduced to zero for months beginning after December 31, 2018, they were studying whether and how the reporting requirements under section 6055 should change, if at all, for future years. The Treasury Department and the Service continue to do so and to request comments. Because the individual shared responsibility payment is reduced to zero in 2019, an individual does not need the information on Form 1095-B in order to compute his or her federal tax liability or file an income tax return with the Service. Nonetheless, reporting entities required to furnish Form 1095-B to individuals must expend resources to do so. At this time, the Treasury Department and the Service have determined as a matter of enforcement priorities that, for 2019, relief from the penalty under section 6722 for failing to furnish a statement as required under section 6055 is in the interest of sound tax administration in certain cases. In particular, the Service will not assess a penalty under section 6722 against reporting entities for failing to furnish a Form 1095-B to responsible individuals in cases where the following two conditions are met (the 2019 section 6055 furnishing relief). First, the reporting entity posts a notice prominently on its website stating that responsible individuals may receive a copy of their 2019 Form 1095-B upon request, accompanied by an email address and a physical address to which a request may be sent, as well as a telephone number that responsible individuals can use to contact the reporting entity with any questions. Second, the reporting entity furnishes a 2019 Form 1095-B to any responsible individual upon request within 30 days of the date the request is received.

As noted earlier in this notice, ALE members that offer self-insured health plans are generally required to use Form 1095-C, Part III to meet the section 6055 reporting requirements, instead of Form

²For 2015, the furnishing due date was extended by 60 days and, for 2018, the furnishing due date was extended by 32 days because the 30th day fell on a Saturday.

³This Notice extends the due date for furnishing 2019 Forms 1095-B and 1095-C to March 2 to provide a full 30-day extension. This due date takes into account that 2020 is a leap year and that March 1, 2020 is a Sunday.

1095-B. However, because of the combined reporting under sections 6056 and 6055 on the Form 1095-C for full-time employees of ALE members enrolled in self-insured health plans, the 2019 section 6055 furnishing relief does not extend to the requirement to furnish Forms 1095-C to full-time employees. Accordingly, for full-time employees enrolled in self-insured health plans, penalties will continue to be assessed consistent with prior enforcement policies for any failure by ALE members to furnish Form 1095-C, including Part III, according to the applicable instructions. However, the 2019 section 6055 furnishing relief does extend to penalty assessments in connection with the requirement to furnish the Form 1095-C to any employee enrolled in an ALE member's self-insured health plan who is not a full-time employee for any month of 2019,⁴ subject to the requirements of the 2019 section 6055 furnishing relief.

The 2019 section 6055 furnishing relief does not affect assessment of penalties associated with the requirement or the deadline to file with the Service the 2019 Forms 1094-B or 1095-B or the Forms 1094-C or 1095-C, as applicable.

C. Extension of Good-Faith Relief for Reporting and Furnishing under Sections 6055 and 6056 for 2019

This notice also extends relief from penalties under sections 6721 and 6722 to reporting entities that report incorrect or incomplete information on the return or statement when these entities can show that they made good-faith efforts to comply with the information-reporting requirements under sections 6055 and 6056 for 2019 (both for furnishing to individuals and for filing with the Service). This relief applies to missing and inaccurate taxpayer identification numbers and dates of birth, as well as other information required on the return or statement. Reporting entities must make a good-faith effort to comply with the regulations under sections 6055 and 6056 to be eligible for this relief. In determining good faith, the Service will take into account wheth-

er an employer or other coverage provider made reasonable efforts to prepare for reporting the required information to the Service and furnishing it to employees and covered individuals, such as gathering and transmitting the necessary data to an agent to prepare the data for submission to the Service or testing its ability to transmit information to the Service. Reporting entities that fail to file an information return or furnish a statement by the extended due dates, except as otherwise provided in this notice, are not eligible for relief.

D. Future Years and Request for Comments

The Treasury Department and the Service request comments as to whether an extension of the due date for furnishing statements to individuals under section 6056, and an extension of good-faith reporting relief under section 6056, will be necessary for future years and, if so, why. Taxpayers and reporting entities may submit comments electronically via the Federal eRulemaking Portal at www.regulations.gov (type "IRS-2019-XX" in the search field on the [regulations.gov](http://www.regulations.gov) homepage to find this notice and submit comments).

Alternatively, taxpayers and reporting entities may mail comments to:

Internal Revenue Service
Attn: CC:PA:LPD:PR (Notice 2019-XX) Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

All comments received will be available for public inspection on www.regulations.gov.

CONTACT INFORMATION

The principal author of this notice is Danielle Pierce of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this notice contact Danielle Pierce at (202) 317-6845 (not a toll-free number).

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

(Also: Part I, §§ 62, 67, 162, 267, 274; 1.62-2, 1.162-17, 1.267(a)-1, 1.274-5, 1.274-5T.)

Rev. Proc. 2019-48

SECTION 1. PURPOSE

Section 11045 of Pub. L. No. 115-97, 131 Stat. 2054, 2088 (2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA), amended § 67 of the Internal Revenue Code (Code) to suspend all miscellaneous itemized deductions for taxable years beginning after December 31, 2017, and before January 1, 2026. In addition, § 13304 of the TCJA amended § 274 of the Code to generally disallow a deduction for expenses with respect to entertainment, amusement, or recreation for amounts incurred or paid after December 31, 2017. This revenue procedure modifies Rev. Proc. 2011-47, 2011-42 I.R.B. 520, to incorporate the changes made by the TCJA, and provides rules for using a per diem rate to substantiate, under § 274(d) and § 1.274-5 of the Income Tax Regulations, the amount of ordinary and necessary business expenses paid or incurred while traveling away from home. Taxpayers are not required to use a method described in this revenue procedure. A taxpayer may substantiate actual allowable expenses if the taxpayer maintains adequate records or other sufficient evidence.

This revenue procedure provides rules for using a per diem rate to substantiate the amount of an employee's expenses for lodging, meal, and incidental expenses, or for meal and incidental expenses only, that a payor (an employer, its agent, or a third party) reimburses. Certain specified employees and self-employed individuals that deduct unreimbursed expenses for travel away from home may use a per diem rate for meals and incidental expenses, or incidental expenses only, under this revenue procedure. This revenue procedure does not provide rules for using a per

⁴For such an employee, the Instructions for Forms 1094-C and 1095-C provide that the employer is to enter code 1G on line 14 for the Form 1095-C, but the ALE member is not otherwise required to complete Part II of Form 1095-C.

diem rate to substantiate the amount of lodging expenses only.

The Internal Revenue Service (Service) publishes an annual notice that provides the special per diem rates for purposes of sections 4.04, 4.05, and 5 of this revenue procedure and the list of high-cost localities for purposes of section 5 of this revenue procedure. See, for example, Notice 2019-55, 2019-42 I.R.B. 937 (or successor). The annual notice provides (1) the special transportation industry meal and incidental expenses rates (M&IE rates), (2) the rate for the incidental expenses only deduction, and (3) the rates and list of high-cost localities for purposes of the high-low substantiation method.

SECTION 2. BACKGROUND AND CHANGES

.01 Section 162(a) of the Code allows a deduction for ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including expenses for travel away from home. Under § 262 of the Code, a taxpayer may not deduct personal travel or living expenses.

.02 Section 274(n) generally limits the amount allowable as a deduction under § 162 for any expense for food or beverages to 50 percent of the otherwise allowable amount. For an individual during, or incident to, a period of duty subject to the hours of service limitations of the Department of Transportation, § 274(n)(3) provides that, for taxable years beginning in 2008 or thereafter, the deductible percentage for these expenses is 80 percent.

.03 To deduct expenses for travel away from home, a taxpayer must substantiate the expenses under § 274(d), which also authorizes the Secretary of the Treasury or his delegate to prescribe by regulation that some or all of the substantiation requirements do not apply to an expense that does not exceed a particular amount.

.04 Section 1.274-5(g) authorizes the Commissioner of Internal Revenue (Commissioner) to prescribe rules under which reimbursement arrangements or per diem allowances are regarded (1) as equivalent to substantiation, by adequate records or other sufficient evidence, of the amount of travel expenses for purposes of § 1.274-5(c), and (2) as satisfying the requirements

of an adequate accounting to the employer of the amount of travel expenses for purposes of § 1.274-5(f).

.05 For purposes of determining adjusted gross income, § 62(a)(2)(A) of the Code allows an employee to deduct business expenses the employee pays or incurs in performing services under a reimbursement or other expense allowance arrangement with a payor. In addition, § 62(a)(2)(B)-(E) allow qualified performing artists, fee-basis state or local government officials, eligible educators, and Armed Forces reservists to deduct specified business expenses paid or incurred in performing services. The expenses paid or incurred by employees that are deductible under § 62(a)(2) in computing adjusted gross income are above-the-line deductions determined without regard to § 67.

.06 Section 62(c) provides that an arrangement is not treated as a reimbursement or other expense allowance arrangement for purposes of § 62(a)(2)(A) if it (1) does not require the employee to substantiate the expenses covered by the arrangement to the payor, or (2) allows the employee to retain any amount in excess of the substantiated expenses covered under the arrangement. Section 62(c) further provides, however, that substantiation is not required for the expense to the extent provided in regulations under § 274(d).

.07 Under § 1.62-2(c) of the Income Tax Regulations, a reimbursement or other expense allowance arrangement satisfies the requirements of § 62(c) if it meets the requirements of business connection, substantiation, and returning amounts in excess of expenses. In that case, all amounts paid under the arrangement are treated as paid under an accountable plan and are excluded from income and wages. If an arrangement does not meet one or more of these requirements, all amounts paid under the arrangement are treated as paid under a nonaccountable plan and are included in an employee's gross income, must be reported as wages or compensation on the employee's Form W-2, and are subject to the withholding and payment of employment taxes (Federal Insurance Contributions Act, Federal Unemployment Tax Act, Railroad Retirement Tax Act, Railroad Unemployment Repayment Tax, and income tax under subtitle A of the Code).

.08 Section 1.62-2(e)(2) provides that the amount of a business expense substantiated under § 1.274-5(g) is treated as substantiated for purposes of § 1.62-2.

.09 Under § 1.62-2(f)(2), the Commissioner may prescribe rules for treating an arrangement providing per diem allowances as satisfying the requirement of returning amounts in excess of expenses if the arrangement requires the employee to return amounts that relate to unsubstantiated travel days, even though the arrangement does not require the employee to return the portion of the allowance that relates to substantiated travel days and that exceeds the deemed substantiated amount for those days. The allowance must be reasonably calculated not to exceed the amount of the employee's expenses or anticipated expenses and the employee must be required to return within a reasonable period of time any portion of the allowance that relates to unsubstantiated travel days. Under § 1.62-2(h)(2)(i)(B), the portion of the allowance that relates to substantiated travel days, that exceeds the substantiated amount for those days, and that the employee is not required to return is subject to withholding and payment of employment taxes. See §§ 31.3121(a)-3, 31.3231(e)-1(a)(5), 31.3306(b)-2, and 31.3401(a)-4 of the Employment Tax Regulations.

.10 Under § 1.62-2(h)(2)(i)(B)(4), the Commissioner may prescribe special rules for the timing of withholding and paying employment taxes on per diem allowances.

.11 Section 1.274-5(j)(1) authorizes the Commissioner to establish a method allowing a taxpayer to treat a specific amount as paid or incurred for meals while traveling away from home instead of substantiating the actual cost.

.12 Section 1.274-5(j)(3) authorizes the Commissioner to establish a method allowing a taxpayer to treat a specific amount as paid or incurred for incidental expenses while traveling away from home in lieu of substantiating the actual cost.

.13 Section 67(a) provides generally that, in the case of an individual, the miscellaneous itemized deductions for any taxable year shall be allowed only to the extent that the aggregate of such deductions exceeds 2 percent of adjusted gross income.

.14 Section 11045 of the TCJA amended § 67 to temporarily suspend all miscellaneous itemized deductions that are subject to the two-percent of adjusted gross income floor. For any taxable year beginning after December 31, 2017, and before January 1, 2026 (suspension period), a taxpayer is not permitted to claim miscellaneous itemized deductions, including unreimbursed employee travel expenses.

.15 Section 13304 of the TCJA amended § 274 to generally disallow a deduction for expenses with respect to entertainment, amusement, or recreation incurred or paid after December 31, 2017. Otherwise allowable meal expenses remain deductible, subject to the 50 percent limitation in § 274(n)(1).

.16 This revenue procedure includes modifications to Rev. Proc. 2011-47 as follows:

(1) The definition of “incidental expenses” in section 3.02 is updated to reflect the definition of this term in the current Federal Travel Regulations, 41 C.F.R. 300-3.1.

(2) Sections 7.05, 7.06, and 7.07 are deleted to reflect changes made by the TCJA: (a) unreimbursed employee travel expenses that are miscellaneous itemized deductions subject to the two-percent of adjusted gross income floor are not permitted during the suspension period, and (b) a deduction for expenses with respect to entertainment, amusement, or recreation is generally disallowed. New sections 7.05, 7.06 and 7.07 are added to clarify that employees described in § 62(a)(2) (B)-(E), may continue to use the methods allowed under sections 4.03 and 4.05 of this revenue procedure to substantiate their expenses.

SECTION 3. DEFINITIONS

.01 *Per diem allowance.* The term “per diem allowance” means a payment under a reimbursement or other expense allowance arrangement that is --

(1) Paid for ordinary and necessary business expenses incurred, or that the payor reasonably anticipates will be incurred, by an employee for lodging, meal, and incidental expenses, or for meal and incidental expenses, for travel away from home performing services as an employee of the employer,

(2) Reasonably calculated not to exceed the amount of the expenses or the anticipated expenses, and

(3) Paid at or below the applicable federal per diem rate, a flat rate or stated schedule, or in accordance with any other Service-specified rate or schedule.

.02 *Federal per diem rate and federal M&IE rate.*

(1) *In general.* The federal per diem rate is equal to the sum of the applicable federal lodging expense rate and the applicable federal M&IE rate for the day and locality of travel.

(a) *CONUS rates.* The General Services Administration (GSA) publishes the rates for localities in the continental United States (CONUS), as noted in Appendix A to 41 C.F.R. ch. 301. The GSA rates are available on the internet at www.gsa.gov.

(b) *OCONUS rates.* The rates for localities outside the continental United States (OCONUS) are established by the Secretary of Defense (rates for non-foreign localities, including Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands, and the possessions of the United States) and by the Secretary of State (rates for foreign localities). These rates are published in the Per Diem Supplement to the Standardized Regulations (Government Civilians, Foreign Areas) (updated on a monthly basis) and are available on the internet at www.defensetravel.dod.mil and www.state.gov.

(2) *Locality of travel.* The term “locality of travel” means the locality where an employee or self-employed individual traveling away from home stops for sleep or rest.

(3) *Incidental expenses.* The term “incidental expenses” has the same meaning as in the Federal Travel Regulations, 41 C.F.R. 300-3.1 (fees and tips given to porters, baggage carriers, bellhops, hotel staff, and staff on ships). Future changes to the definition of incidental expenses in the Federal Travel Regulations will be announced in the annual notice providing the special per diem rates.

.03 *Flat rate or stated schedule.*

(1) *In general.* Except as provided in section 3.03(2) of this revenue procedure, an allowance is paid at a flat rate or stated schedule if it is provided on a uniform and objective basis for the expenses described in section 3.01(1) of this revenue procedure. The allowance may be paid for the

number of days away from home performing services as an employee or on any other basis that is consistently applied and in accordance with reasonable business practice. Thus, for example, an hourly payment to cover meal and incidental expenses paid to a pilot or flight attendant who is traveling away from home performing services as an employee is an allowance paid at a flat rate or stated schedule. Likewise, a payment based on the number of miles traveled (such as cents per mile) to cover meal and incidental expenses paid to an over-the-road truck driver who is traveling away from home performing services as an employee is an allowance paid at a flat rate or stated schedule.

(2) *Limitation.* An allowance that is computed on a basis similar to that used in computing an employee’s wages or other compensation (such as the number of hours worked, miles traveled, or pieces produced) does not meet the business connection requirement of § 1.62-2(d), is not a per diem allowance, and is not paid at a flat rate or stated schedule, unless, as of December 12, 1989, (a) the allowance was identified by the payor either by making a separate payment or by specifically identifying the amount of the allowance, or (b) an allowance computed on that basis was commonly used in the industry in which the employee performed services. See § 1.62-2(d)(3)(ii).

.04 *Partners and volunteers.* Individuals subject to the rules of Subchapter K of chapter 1 of subtitle A of the Code (partners) and individuals performing services without remuneration (volunteers) who receive reimbursements from payors may use the methods allowed under this revenue procedure to substantiate their expenses. The rules of sections 3, 4, 5, and 6 (except section 6.06) of this revenue procedure apply to reimbursements from payors to partners or volunteers.

SECTION 4. PER DIEM SUBSTANTIATION METHOD

.01 *Per diem allowance.* If a payor pays a per diem allowance in lieu of reimbursing actual lodging, meal, and incidental expenses incurred or reasonably anticipated to be incurred by an employee for travel away from home, the amount of the expenses that is deemed substantiated for

each calendar day is equal to the lesser of the per diem allowance for that day or the amount computed at the federal per diem rate (see section 3.02 of this revenue procedure) for the locality of travel for that day (or partial day, see section 6.04 of this revenue procedure). See section 4.06(1) of this revenue procedure for transition rules.

.02 Meal and incidental expenses only per diem allowance. If a payor pays a per diem allowance only for meal and incidental expenses in lieu of reimbursing actual meal and incidental expenses incurred or to be incurred by an employee for travel away from home, the amount of the expenses that is deemed substantiated for each calendar day is equal to the lesser of the per diem allowance for that day or the amount computed at the federal M&IE rate for the locality of travel for that day or partial day. A per diem allowance is treated as paid for meal and incidental expenses only if (1) the payor pays the employee for actual expenses for lodging based on receipts submitted to the payor, (2) the payor provides the lodging in kind, (3) the payor pays the actual expenses for lodging directly to the provider of the lodging, (4) the payor does not have a reasonable belief that the employee will or did incur lodging expenses, or (5) the allowance is computed on a basis similar to that used in computing an employee's wages or other compensation (such as the number of hours worked, miles traveled, or pieces produced). See section 4.06(1) of this revenue procedure for transition rules.

.03 Method for meal and incidental expenses only deduction. Instead of the actual expense amount, employees described in § 62(a)(2)(B)-(E), and self-employed individuals may substantiate the amount of deductible meal expenses by using an amount computed at the federal M&IE rate for the locality of travel for each calendar day or partial day the employee or self-employed individual is traveling away from home. This amount is deemed substantiated for purposes of § 1.274-5T(b)(2)(i) and (c), provided the employee or self-employed individual substantiates the elements of time, place, and business purpose of the travel for that day or partial day in accordance with those regulations. See section 6.05(1) of this revenue procedure for rules related to the application of the § 274(n) limitation

to amounts determined under this section 4.03. See section 4.05 of this revenue procedure for a method for substantiating the deductible amount of incidental expenses that employees described in § 62(a)(2)(B)-(E), or self-employed individuals who do not pay or incur meal expenses may use. See section 4.06(1) of this revenue procedure for transition rules.

.04 Special rules for the transportation industry.

(1) *In general.* This section 4.04 applies to (a) a payor that pays a per diem allowance only for meal and incidental expenses for travel away from home to an employee in the transportation industry and computes the amount under section 4.02 of this revenue procedure, or (b) self-employed individuals in the transportation industry who compute the deductible amount for meal and incidental expenses for travel away from home under section 4.03 of this revenue procedure.

(2) *Transportation industry defined.* For purposes of this section 4.04, an employee or self-employed individual is in the transportation industry only if the employee's or self-employed individual's work (a) is of the type that directly involves moving people or goods by airplane, barge, bus, ship, train, or truck, and (b) involves regularly traveling away from home and stopping during a single trip at localities with differing federal M&IE rates. For purposes of the preceding sentence, a payor must determine that an employee or a group of employees is in the transportation industry by using a method that is consistently applied and in accordance with reasonable business practice.

(3) *Rates.* A taxpayer described in section 4.04(1) of this revenue procedure may use the CONUS and OCONUS special M&IE rates (published in an annual notice) for the transportation industry. A payor that uses either or both of these special rates for an employee must use the special rate(s) for all amounts deemed substantiated under section 4.02 of this revenue procedure paid to that employee for travel away from home within CONUS and/or OCONUS during the calendar year. Similarly, a self-employed individual who uses either or both of these special rates must use the special rate(s) for all amounts deemed substantiated under section 4.03 of this revenue procedure for travel away

from home within CONUS and/or OCONUS during the calendar year. See section 4.06(2) of this revenue procedure for transition rules.

(4) *Periodic rule.* A payor described in section 4.04(1) of this revenue procedure may compute the amount of an employee's expenses that is deemed substantiated under section 4.02 of this revenue procedure periodically (not less frequently than monthly) rather than daily by comparing the total per diem allowance paid for the period to the sum of the amounts computed either at the federal M&IE rate(s) for the localities of travel, or at the special rate described in section 4.04(3) of this revenue procedure, for the days or partial days the employee is away from home during the period.

(5) *Examples.*

(a) *Example 1.* Taxpayer, an employee in the transportation industry, travels away from home on business within CONUS for 10 days during a calendar month. A payor pays Taxpayer a per diem allowance for meal and incidental expenses only that the payor computes using section 4.04(3) of this revenue procedure. The CONUS special M&IE rate is \$59 per day. The amount deemed substantiated under section 4.02 of this revenue procedure is equal to the lesser of the total per diem allowance paid for the month (\$590) or \$590 (10 days away from home paid using the special transportation federal M&IE rate at \$59 per day). In this example, the total per diem allowance paid for the month and the special transportation industry federal M&IE rate are the same amount.

(b) *Example 2.* Taxpayer, a truck driver employee in the transportation industry, is paid a "cents-per-mile" allowance that qualifies as an allowance paid under a flat rate or stated schedule as defined in section 3.03 of this revenue procedure. Taxpayer travels away from home on business for 10 days. Based on the number of miles Taxpayer is expected to drive per day, Taxpayer's employer pays an allowance of \$500 for the 10 days of business travel. The CONUS special M&IE rate is \$59 per day. Taxpayer actually drives for 8 days, and does not drive for the other 2 days Taxpayer is away from home. Taxpayer is paid under the periodic rule used for transportation industry employers and employees in accordance with section 4.04(4)

of this revenue procedure. The amount deemed substantiated is the full \$500 because that amount does not exceed \$590 (10 days away from home at \$59 per day).

.05 Method for incidental expenses only deduction. Instead of using actual expenses in computing the amount allowable as a deduction for ordinary and necessary incidental expenses paid or incurred for travel away from home, employees described in § 62(a)(2)(B)-(E), and self-employed individuals who pay or incur incidental expenses but do not pay or incur meal expenses for a calendar day or partial day of travel away from home may use, for each calendar day or partial day the employee described in this section 4.05 or self-employed individual is away from home, an amount that the Service publishes in an annual notice. This amount is deemed substantiated for purposes of § 1.274-5T(b)(2)(i) and (c), provided the employee or self-employed individual substantiates the elements of time, place, and business purpose of the travel for that day or partial day in accordance with those regulations. The method authorized by this section 4.05 may not be used by payors that reimburse expenses under section 4.01, 4.02, or 5.01 of this revenue procedure, or by employees described in § 62(a)(2)(B)-(E) or self-employed individuals who use the method described in section 4.03 of this revenue procedure to substantiate the amount of deductible meal and incidental expenses. See section 6.05(5) of this revenue procedure for rules related to the application of the § 274(n) limitation to amounts determined under this section 4.05.

.06 Transition rules.

(1) *In general.* In applying section 4.01, 4.02, or 4.03 of this revenue procedure, taxpayers may continue to use the CONUS rates in effect for the first 9 months of the calendar year, instead of the updated GSA rates, for expenses of all CONUS travel away from home that are paid or incurred during the last 3 months of the calendar year. A taxpayer must use either the rates for the first 9 months of the calendar year or the updated rates for the period October 1 through December 31 of each calendar year consistently.

(2) *Special transportation industry rates.* Under the calendar-year convention provided in section 4.04(3) of this revenue

procedure, a taxpayer who uses the federal M&IE rates during the first 9 months of the calendar year to substantiate the amount of an individual's travel expenses under sections 4.02 or 4.03 of this revenue procedure may not use, for that individual, the special transportation industry rates published in an annual notice until January 1 of the next calendar year. Similarly, a taxpayer who uses the special transportation industry rates during the first 9 months of the calendar year to substantiate the amount of an individual's travel expenses may not use, for that individual, the federal M&IE rates until January 1 of the next calendar year.

SECTION 5. HIGH-LOW SUBSTANTIATION METHOD

.01 In general. A payor that pays a per diem allowance in lieu of reimbursing actual expenses an employee pays or incurs or will pay or incur for travel away from home may use the high-low substantiation method described in this section 5 in lieu of the per diem substantiation method described in section 4.01 of this revenue procedure or the meal and incidental expenses only method described in section 4.02 of this revenue procedure. If a payor uses the high-low substantiation method, the amount of the expenses that is deemed substantiated for each calendar day is equal to the lesser of the actual per diem allowance for that day or the amount computed under section 5.02 of this revenue procedure. Employees and self-employed individuals may not use the high-low substantiation method in lieu of the meal and incidental expenses only deduction method described in section 4.03 of this revenue procedure.

.02 Application of high-low method. Under the high-low substantiation method, a high rate applies to localities designated as high-cost localities and a low rate applies to every other locality within CONUS (one high rate and one low rate for lodging, meal, and incidental expenses and one high rate and one low rate for meal and incidental expenses only). The high or low rates, as appropriate, apply as if they were the federal per diem rate or the federal M&IE rate for the locality of travel. The high and low rates, amounts treated as meal expenses for purposes of

§ 274(n), and a list of high-cost localities are published in an annual notice.

.03 Limitation. A payor that uses the high-low substantiation method for an employee must use that method for all amounts paid to that employee for travel away from home within CONUS during the calendar year. The payor may use any permissible method (actual expenses, the per diem substantiation method described in section 4.01 of this revenue procedure, or the meal and incidental expenses only per diem substantiation method described in section 4.02 of this revenue procedure) to reimburse that employee for any OCONUS travel away from home.

.04 Transition rules. For travel in the last 3 months of a calendar year--

(1) A payor must continue to use the same method (per diem method under sections 4.01 or 4.02 of this revenue procedure, or high-low method) for an employee as the payor used during the first 9 months of the calendar year; and

(2) A payor may use either the rates and high-cost localities in effect for the first 9 months of the calendar year or the updated rates and high-cost localities in effect for the last 3 months of the calendar year if the payor uses the same rates and localities consistently for all employees reimbursed under the high-low method.

.05 Examples.

(1) *Example 1.* Employer pays a per diem allowance for lodging, meal, and incidental expenses to Employee for travel away from home using the high-low substantiation method. Employee travels away from home for 5 full days to City A within CONUS. City A is listed as a high-cost locality. Employer reimburses employee at a rate of \$225 per day for each of employee's 5 days of travel. The per diem rate for a high-cost locality is \$250. The amount deemed substantiated under section 5 of this revenue procedure is \$225 per day (the lesser of the per diem allowance for each day (\$225) or the per diem rate for a high-cost locality (\$250)).

(2) *Example 2.* Employer pays a per diem allowance for meal and incidental expenses only to Employee for travel away from home using the high-low substantiation method. Employee travels away from home to City B (within CONUS) each month of Year 1. For all of Year 1, Employer reimburses Employee at

a rate of \$50 per day for meal and incidental expenses only. For the first 9 months of Year 1, City B is listed as a high-cost locality. The M&IE rate is \$60 for a high-cost locality and \$45 for all other localities. For the last 3 months of Year 1, City B is not listed as a high-cost locality, and the M&IE rate for City B is \$48. Employer chooses to use the rates and list of high-cost localities in effect during the first 9 months of Year 1 for the last 3 months of Year 1 (instead of the updated rates for the last 3 months of Year 1). If Employer uses the rates and high-cost localities in effect during the first 9 months of Year 1 for the last 3 months of Year 1 consistently for all employees, the amount deemed substantiated for Employee's travel to City B during the last 3 months of Year 1 is \$50, the lesser of the M&IE rate for a high-cost locality (\$60) or the employee's per diem allowance for each day (\$50).

SECTION 6. LIMITATIONS AND SPECIAL RULES

.01 *In general.* The federal per diem rate and the federal M&IE rate described in section 3.02 of this revenue procedure for the locality of travel apply in the same manner as they apply under the Federal Travel Regulations, 41 C.F.R. Part 301, except as provided in sections 6.02 through 6.04 of this revenue procedure.

.02 *Federal per diem rate.* A receipt for lodging expenses is not required in determining the amount of expenses deemed substantiated at the federal per diem rate (including lodging, meal, and incidental expenses in one rate) under section 4.01 or 5.01. See section 7.01 of this revenue procedure for the requirement that an employee substantiate the time, place, and business purpose of the expense.

.03 *Meals provided in kind.* A payor is not required to reduce the federal per diem rate or the federal M&IE rate for the locality of travel for meals provided in kind, provided the payor has a reasonable belief that the employee incurred or will incur meal and incidental expenses during each day of travel.

.04 *Proration of the federal per diem or M&IE rate.* Under the Federal Travel Regulations, in determining the federal per diem rate or the federal M&IE rate for the locality of travel, the full applicable

federal M&IE rate is available for a full day of travel from 12:01 a.m. to 12:00 midnight. A taxpayer must use the method described in section 6.04(1) of this revenue procedure for purposes of determining the amount deemed substantiated for meal and incidental expenses or for incidental expenses only under section 4.03, 4.05, or 5 of this revenue procedure for partial days of travel away from home. For purposes of determining the amount deemed substantiated for a reimbursement for lodging, meal, and incidental expenses under section 4.01, 4.02, or 5 of this revenue procedure for partial days of travel away from home, a payor may use either of the following methods to prorate the federal M&IE rate to determine the federal per diem rate or the federal M&IE rate for the partial days of travel:

(1) The rate may be prorated using the method prescribed by the Federal Travel Regulations for meal and incidental expenses for partial days, see 41 C.F.R. 301-11.101, by allocating three-fourths of the applicable rate to each partial day of travel; or

(2) The rate may be prorated using any method that is consistently applied and is consistent with reasonable business practice. For example, if an employee travels away from home from 9 a.m. one day to 5 p.m. the next day, a method of proration that results in an amount equal to two times the federal M&IE rate is consistent with reasonable business practice (even though the Federal Travel Regulations allow only one and a half times the federal M&IE rate).

.05 *Application of the appropriate § 274(n) limitation on meal expenses.* Except as provided in section 6.05(5) of this revenue procedure, all or part of the amount of an expense deemed substantiated under this revenue procedure is subject to the appropriate limitation under § 274(n) (see section 2.02 of this revenue procedure) on the deductibility of food and beverage expenses.

(1) A taxpayer must treat the entire amount computed for meal and incidental expenses under section 4.03 of this revenue procedure as an expense for food and beverages.

(2) If a per diem allowance is paid for meal and incidental expenses only, a payor must treat an amount equal to the lesser

of the allowance or the federal M&IE rate for the locality of travel for each day or partial day (see section 6.04 of this revenue procedure) as an expense for food and beverages.

(3) If a per diem allowance is paid for lodging, meal, and incidental expenses for each calendar day or partial day an employee is away from home at a rate equal to or in excess of the federal per diem rate for the locality of travel, a payor must treat an amount equal to the federal M&IE rate for the locality of travel for each calendar day or partial day as an expense for food or beverages.

(4) If a per diem allowance is paid for lodging, meal, and incidental expenses for each calendar day or partial day an employee is away from home at a rate less than the federal per diem rate for the locality of travel, a payor must:

(a) Treat an amount equal to the federal M&IE rate for the locality of travel for each calendar day or partial day or, if less, the amount of the allowance, as an expense for food or beverages; or

(b) Treat an amount equal to 40 percent of the allowance as an expense for food or beverages.

(5) None of the amount for incidental expenses computed under section 4.05 of this revenue procedure is subject to limitation under § 274(n).

.06 *No double reimbursement or deduction.* If a payor pays a per diem allowance in lieu of reimbursing actual lodging, meal, and incidental expenses, or meal and incidental expenses only, under section 4 or 5 of this revenue procedure, and the amount is treated as paid under an accountable plan, any additional payment for those expenses is treated as paid under a nonaccountable plan, is included in an employee's gross income, is reported as wages or other compensation on the employee's Form W-2, and is subject to withholding and payment of employment taxes. Similarly, if an employee or self-employed individual computes the amount allowable as a deduction for meal and incidental expenses for travel away from home under section 4.03 or 4.04 of this revenue procedure, no other deduction is allowed to the employee or self-employed individual for those expenses. For example, an employee receives a per diem allowance from a payor for meal and in-

cidental expenses incurred while traveling away from home and the amount is treated as paid under an accountable plan. During that trip, the employee pays for dinner for the employee and two business associates. The payor reimburses as a business meal expense the meal expense for the employee and the two business associates. Because the payor also pays the employee a per diem allowance for meal and incidental expenses, the amount paid for the employee's portion of the business meal expense is treated as paid under a nonaccountable plan, is reported as wages or other compensation on the employee's Form W-2, and is subject to withholding and payment of employment taxes.

.07 *Related parties.* Sections 4.01 and 5 of this revenue procedure do not apply if a payor and an employee are related within the meaning of § 267(b), but for this purpose the percentage of ownership interest referred to in § 267(b)(2) is 10 percent.

SECTION 7. APPLICATION

.01 An employee satisfies the adequate accounting and substantiation requirements of § 1.274-5(c) and (f)(4) and § 1.274-5T(c) if—

(1) The employee uses this revenue procedure to substantiate to a payor the amount of the employee's travel expenses, and

(2) Within a reasonable period of time, the employee also substantiates to the payor the elements of time, place, and business purpose of the travel in accordance with § 1.274-5T(b)(2) and (c) and § 1.274-5(c) (other than § 1.274-5(c)(2)(iii)(A)).

.02 An arrangement providing per diem allowances is treated as satisfying the requirement of § 1.62-2(f)(2) of returning amounts in excess of expenses if an employee is required to return within a reasonable period of time (as defined in § 1.62-2(g)) any portion of the allowance that relates to unsubstantiated travel days, even though the arrangement does not require the employee to return the portion of the allowance that relates to substantiated travel days and that exceeds the amount of the employee's expenses deemed substantiated. For example, a payor provides an employee an advance per diem allowance

for meal and incidental expenses of \$250, based on an anticipated 5 days of business travel at \$50 per day to a locality for which the federal M&IE rate is \$46, and the employee substantiates 3 full days of business travel. The requirement to return excess amounts is treated as satisfied if the employee is required to return within a reasonable period of time (as defined in § 1.62-2(g)) the portion of the allowance that is attributable to the 2 unsubstantiated days of travel (\$100), even though the employee is not required to return the portion of the allowance (\$12) that exceeds the amount of the employee's expenses deemed substantiated under section 4.02 of this revenue procedure (\$138) for the 3 substantiated days of travel. However, the \$12 excess portion of the allowance is treated as paid under a nonaccountable plan as discussed in section 7.04 of this revenue procedure.

.03 An employee is not required to include in gross income the portion of a per diem allowance received from a payor that is less than or equal to the amount deemed substantiated under the rules provided in section 4 or 5 of this revenue procedure if the employee substantiates the business travel expenses covered by the per diem allowance in accordance with section 7.01 of this revenue procedure. See § 1.274-5T(f)(2)(i). If the remaining requirements for an accountable plan provided in § 1.62-2 are satisfied, that portion of the allowance is treated as paid under an accountable plan, is not reported as wages or other compensation on the employee's Form W-2, and is exempt from the withholding and payment of employment taxes. See § 1.62-2(c)(2) and (c)(4).

.04 An employee is required to include in gross income only the portion of the per diem allowance received from a payor that exceeds the amount deemed substantiated under the rules provided in section 4 or 5 of this revenue procedure if the employee substantiates the business travel expenses covered by the per diem allowance in accordance with section 7.01 of this revenue procedure. See § 1.274-5T(f)(2)(ii). In addition, the excess portion of the allowance is treated as paid under a nonaccountable plan, is reported as wages or other compensation on the employee's Form W-2, and is subject to withholding and payment

of employment taxes. See § 1.62-2(c)(3)(ii), (c)(5), and (h)(2)(i)(B).

.05 An employee described in § 62(a)(2)(B)-(E) who pays or incurs meal expenses and does not receive a per diem allowance for meal and incidental expenses may deduct an amount computed under section 4.03 of this revenue procedure in computing adjusted gross income. As an above-the-line deduction, such amount for such an employee is determined without regard to § 67, but is subject to the limitations set forth in § 62(a)(2)(B)-(E) and § 274(n). During the suspension period, a taxpayer may not deduct unreimbursed employee travel expenses as itemized deductions under § 67 in computing taxable income.

.06 An employee described in § 62(a)(2)(B)-(E) who does not pay or incur amounts for meal expenses and does not receive a per diem allowance for incidental expenses may deduct an amount computed under section 4.05 of this revenue procedure in computing adjusted gross income. As an above-the-line deduction, such amount for such an employee is determined without regard to § 67, but is subject to the limitations set forth in § 62(a)(2)(B)-(E). During the suspension period, a taxpayer may not deduct unreimbursed employee travel expenses as itemized deductions under § 67 in computing taxable income.

.07 If the amount of the expenses that is deemed substantiated under the rules provided in sections 4.01, 4.02, or 5 of this revenue procedure is less than the amount of an employee's business expenses for travel away from home, an employee described in § 62(a)(2)(B)-(E) may deduct, in computing adjusted gross income, the amount by which the business travel expenses exceed the amount that is deemed substantiated, provided the employee substantiates all the business travel expenses (not just the excess over the federal per diem rate), includes on Form 2106, "Employee Business Expenses," the deemed substantiated portion of the per diem allowance received from the payor, and includes in gross income the portion (if any) of the per diem allowance received from the payor that exceeds the amount deemed substantiated. See § 1.274-5T(f)(2)(iii). However,

for purposes of claiming this deduction for meal and incidental expenses, substantiation of the amount of the expenses is not required if the employee is claiming a deduction that is equal to or less than the amount computed under section 4.03 of this revenue procedure minus the amount deemed substantiated under sections 4.02 and 7.01 of this revenue procedure. The amount of the deduction is determined without regard to § 67, and is subject to the limitations set forth in § 62(a)(2)(B)-(E) and § 274(n).

.08 A self-employed individual who pays or incurs meal expenses for a calendar day or partial day of travel away from home may deduct an amount computed under section 4.03 of this revenue procedure in determining adjusted gross income under § 62(a)(1), subject to the appropriate limitation on meal expenses in § 274(n).

.09 A self-employed individual who does not pay or incur meal expenses for a calendar day or partial day of travel away from home may deduct an amount computed under section 4.05 of this revenue procedure in determining adjusted gross income under § 62(a)(1).

SECTION 8. WITHHOLDING AND PAYMENT OF EMPLOYMENT TAXES

.01 The portion of a per diem allowance, if any, that relates to the days of business travel substantiated and that exceeds the amount deemed substantiated for those days under section 4.01, 4.02, or 5 of this revenue procedure is treated as paid under a nonaccountable plan and is subject to withholding and payment of employment taxes. See § 1.62-2(h)(2)(i)(B).

.02 In the case of a per diem allowance paid as a reimbursement, the excess described in section 8.01 of this revenue procedure is subject to withholding and payment of employment taxes in the payroll period in which a payor reimburses the expenses for the days of travel substantiated. See § 1.62-2(h)(2)(i)(B)(2).

.03 In the case of a per diem allowance paid as an advance, the excess described in section 8.01 of this revenue procedure is subject to withholding and payment of

employment taxes no later than the first payroll period following the payroll period in which the days of travel for which the advance was paid are substantiated. See § 1.62-2(h)(2)(i)(B)(3). If an employee does not substantiate some or all of the days of travel for which the advance was paid within a reasonable period of time or does not return the portion of the allowance that relates to those days within a reasonable period of time, the portion of the allowance that relates to those days is subject to withholding and payment of employment taxes no later than the first payroll period following the end of the reasonable period. See § 1.62-2(h)(2)(i)(A).

.04 In the case of a per diem allowance only for meal and incidental expenses for travel away from home paid to an employee in the transportation industry by a payor that uses the rule in section 4.04(4) of this revenue procedure, the excess of the per diem allowance paid for the period over the amount deemed substantiated for the period under section 4.02 of this revenue procedure (after applying section 4.04(4) of this revenue procedure), is subject to withholding and payment of employment taxes no later than the first payroll period following the payroll period in which the excess is computed. See § 1.62-2(h)(2)(i)(B)(4).

.05 For example, an employer pays an employee a per diem allowance under an arrangement that otherwise meets the requirements of an accountable plan to cover business expenses for meals and lodging for travel away from home at a rate of 120 percent of the federal per diem rate for the localities to which the employee travels. The employer does not require the employee to return the 20 percent by which the reimbursement for those expenses exceeds the federal per diem rate. The employee substantiates 6 days of travel away from home: 2 days in a locality where the federal per diem rate is \$150 and 4 days in a locality where the federal per diem rate is \$130. The employer reimburses the employee \$984 for the 6 days of travel away from home ($2 \times (120\% \times \$150) + 4 \times (120\% \times \$130)$), and does not require the employee to return the excess payment of \$164 ($2 \text{ days} \times \$30 (\$180-\$150) + 4 \text{ days} \times \$26 (\$156-\$130)$). For the payroll period

in which the employer reimburses the expenses, the employer must withhold and pay employment taxes on \$164. See section 8.02 of this revenue procedure.

.06 All payments to an employee under a per diem allowance arrangement are treated as paid under a nonaccountable plan if the reimbursement arrangement evidences a pattern of abuse. An arrangement evidences a pattern of abuse if, for example, it has no process to determine when an allowance exceeds the amount that may be deemed substantiated and the arrangement routinely pays allowances in excess of the amount that may be deemed substantiated without requiring actual substantiation or repayment of the excess amount, or treating the excess allowances as wages for employment tax purposes. See § 62(c), § 1.62-2(k), and Rev. Rul. 2006-56, 2006-2 C.B. 874. Thus, these payments are included in the employee's gross income, are reported as wages or other compensation on the employee's Form W-2, and are subject to withholding and payment of employment taxes. See § 1.62-2(c)(3), (c)(5), and (h)(2).

.07 If a payor arranges to pay an amount to an employee regardless of whether the employee incurs (or is reasonably expected to incur) deductible business expenses or other *bona fide* expenses related to the employer's business that are not deductible, the arrangement does not meet the business connection requirement of § 1.62-2(d) and all amounts paid under the arrangement are treated as paid under a nonaccountable plan. Thus, an arrangement that recharacterizes taxable wages as nontaxable reimbursements or allowances in order to avoid the suspension of miscellaneous itemized deductions under § 67(g) does not satisfy the business connection requirement of the accountable plan rules under § 62(c) and the applicable regulations. See § 62(c), § 1.62-2(d), and Rev. Rul. 2012-25, 2012-37 I.R.B. 337.

SECTION 9. EFFECTIVE DATE

This revenue procedure is effective for per diem allowances for lodging, meal and incidental expenses, or for meal and incidental expenses only that are paid to

an employee on or after November 26, 2019, for travel away from home on or after November 26, 2019. For purposes of computing the amount allowable as a deduction for travel away from home, this revenue procedure is effective for meal and incidental expenses or for incidental expenses only paid or incurred on or after November 26, 2019. Notwithstanding the effective date in this section 9, amendments made by the TCJA to § 67 are ef-

fective for taxable years beginning after December 31, 2017, and to § 274 are effective for amounts incurred or paid after December 31, 2017.

SECTION 10. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2011-47 is modified, and as modified, is superseded on November 26, 2019.

DRAFTING INFORMATION

The principal author of this revenue procedure is Maxine Woo-Garcia of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure contact Ms. Woo-Garcia at (202) 317-7005 (not a toll-free number) or the individual identified in the most recent annual per diem notice.

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as “rulings”) that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the

new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.

ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
FR.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel’s Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.

PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

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Internal Revenue Service

Washington, DC 20224

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INTERNAL REVENUE BULLETIN

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