

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.

Bulletin No. 2020-12
March 16, 2020

ADMINISTRATIVE

Rev. Rul. 2020-7, page 522.

Interest rates: underpayments and overpayments. The rates for interest determined under Section 6621 of the code for the calendar quarter beginning April 1, 2020, will be 5 percent for overpayments (4 percent in the case of a corporation), 5 percent for underpayments, and 7 percent for large corporate underpayments. The rate of interest paid on the portion of a corporate overpayment exceeding \$10,000 will be 2.5 percent.

INCOME TAX

Action On Decision 2020-1, page 521.

The IRS' position is that an entity is not in control of the payment of wages within the meaning of section 3401(d)(1) if the payment of wages is contingent upon, or proximately related to, the entity having first received funds from the common law employer.

REG-100814-19, page 542.

These proposed regulations provide guidance under section 274 of the Internal Revenue Code (Code) regarding certain amendments made to section 274 by the Tax Cuts and Jobs

Act of 2017 (TCJA). Specifically, the proposed regulations address the elimination of the deduction under section 274 for expenditures related to entertainment, amusement, or recreation activities, and provide guidance to determine whether an activity is of a type generally considered to be entertainment. The proposed regulations also address the limitation on the deduction of food and beverage expenses under section 274(k) and (n), including the applicability of the exceptions under section 274(e)(2), (3), (4), (7), (8), and (9). These proposed regulations affect taxpayers who pay or incur expenses for meals or entertainment in taxable years beginning after December 31, 2017.

Rev. Proc. 2020-17, page 539.

This revenue procedure exempts from section 6048 information reporting requirements certain U.S. individuals' transactions with, and ownership of, certain tax-favored foreign trusts that are established and operated exclusively or almost exclusively to provide pension or retirement benefits, or to provide medical, disability, or educational benefits. In addition, this revenue procedure provides procedural guidance for certain eligible individuals on how, subject to sections 6511 and 6402, to request abatement of penalties that have been assessed, or refunds of penalties that have been paid, pursuant to section 6677 for a failure to comply with the information reporting requirements of section 6048 regarding these foreign trusts.

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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Actions Relating to Decisions of the Tax Court

It is the policy of the Internal Revenue Service to announce at an early date whether it will follow the holdings in certain cases. An Action on Decision is the document making such an announcement. An Action on Decision will be issued at the discretion of the Service only on unappealed issues decided adverse to the government. Generally, an Action on Decision is issued where its guidance would be helpful to Service personnel working with the same or similar issues. Unlike a Treasury Regulation or a Revenue Ruling, an Action on Decision is not an affirmative statement of Service position. It is not intended to serve as public guidance and may not be cited as precedent.

Actions on Decisions shall be relied upon within the Service only as conclusions applying the law to the facts in the particular case at the time the Action on Decision was issued. Caution should be exercised in extending the recommenda-

tion of the Action on Decision to similar cases where the facts are different. Moreover, the recommendation in the Action on Decision may be superseded by new legislation, regulations, rulings, cases, or Actions on Decisions. Prior to 1991, the Service published acquiescence or nonacquiescence only in certain regular Tax Court opinions. The Service has expanded its acquiescence program to include other civil tax cases where guidance is determined to be helpful. Accordingly, the Service now may acquiesce or nonacquiesce in the holdings of memorandum Tax Court opinions, as well as those of the United States District Courts, Claims Court, and Circuit Courts of Appeal. Regardless of the court deciding the case, the recommendation of any Action on Decision will be published in the **Internal Revenue Bulletin**.

The recommendation in every Action on Decision will be summarized as acquiescence, acquiescence in result only, or nonacquiescence. Both “acquiescence” and “acquiescence in result only” mean that the Service accepts the holding

of the court in a case and that the Service will follow it in disposing of cases with the same controlling facts. However, “acquiescence” indicates neither approval nor disapproval of the reasons assigned by the court for its conclusions; whereas, “acquiescence in result only” indicates disagreement or concern with some or all of those reasons. “Nonacquiescence” signifies that, although no further review was sought, the Service does not agree with the holding of the court and, generally, will not follow the decision in disposing of cases involving other taxpayers. In reference to an opinion of a circuit court of appeals, a “nonacquiescence” indicates that the Service will not follow the holding on a nationwide basis. However, the Service will recognize the precedential impact of the opinion on cases arising within the venue of the deciding circuit.

The Commissioner does NOT ACQUIESCE in the following decision:

Paychex Business Solutions, LLC, et al., v. United States of America, 2017 WL 2692843 (M.D. Fla. 2017)¹

¹The IRS’ position is that an entity is not in control of the payment of wages within the meaning of section 3401(d)(1) if the payment of wages is contingent upon, or proximately related to, the entity having first received funds from the common law employer.

Part I

26 CFR 301.6621-1: Interest rate.

Rev. Rul. 2020-7

Section 6621 of the Internal Revenue Code establishes the interest rates on overpayments and underpayments of tax. Under section 6621(a)(1), the overpayment rate is the sum of the federal short-term rate plus 3 percentage points (2 percentage points in the case of a corporation), except the rate for the portion of a corporate overpayment of tax exceeding \$10,000 for a taxable period is the sum of the federal short-term rate plus 0.5 of a percentage point. Under section 6621(a)(2), the underpayment rate is the sum of the federal short-term rate plus 3 percentage points.

Section 6621(c) provides that for purposes of interest payable under section 6601 on any large corporate underpayment, the underpayment rate under section 6621(a)(2) is determined by substituting “5 percentage points” for “3 percentage points.” See section 6621(c) and section 301.6621-3 of the Regulations on Procedure and Administration for the definition of a large corporate underpayment and for the rules for determining the applicable date. Section 6621(c) and section 301.6621-3 are generally effective for periods after December 31, 1990.

Section 6621(b)(1) provides that the Secretary will determine the federal short-term rate for the first month in each calendar quarter. Section 6621(b)(2)(A) provides that the federal short-term rate determined under section 6621(b)(1) for any month applies during the first calendar quarter beginning after that month.

Section 6621(b)(3) provides that the federal short-term rate for any month is the federal short-term rate determined during that month by the Secretary in accordance with section 1274(d), rounded to the nearest full percent (or, if a multiple of 1/2 of 1 percent, the rate is increased to the next highest full percent).

Notice 88-59, 1988-1 C.B. 546, announced that in determining the quarterly interest rates to be used for overpayments and underpayments of tax under section 6621, the Internal Revenue Service will use the federal short-term rate based on daily compounding because that rate is most consistent with section 6621 which, pursuant to section 6622, is subject to daily compounding.

The federal short-term rate determined in accordance with section 1274(d) during January 2020 is the rate published in Revenue Ruling 2020-3, 2020-7 IRB 409, to take effect beginning February 1, 2020. The federal short-term rate, rounded to the nearest full percent, based on daily compounding determined during the month of January 2020 is 2 percent. Accordingly, an overpayment rate of 5 percent (4 percent in the case of a corporation) and an underpayment rate of 5 percent are established for the calendar quarter beginning April 1, 2020. The overpayment rate for the portion of a corporate overpayment exceeding \$10,000 for the calendar quarter beginning April 1, 2020 is 2.5 percent. The underpayment rate for large corporate underpayments for the calendar quarter beginning April 1, 2020, is 7 percent. These rates apply to amounts bearing interest during that calendar quarter.

Sections 6654(a)(1) and 6655(a)(1) provide that the underpayment rate established under section 6621 applies in determining the addition to tax under sections 6654 and 6655 for failure to pay estimated tax for any taxable year. Thus, the 5 percent rate also applies to estimated tax underpayments for the second calendar quarter beginning April 1, 2020. Pursuant to section 6621(b)(2)(B), in determining the addition to tax under section 6654 for any taxable year for an individual, the federal short-term rate that applies during the third month following the taxable year also applies during the first 15 days of the fourth month following the taxable year. See Rev. Rul. 2019-28, 2019-52 IRB 1401 (5 percent rate for the first quarter of 2020). In addition, pursuant to section 6603(d)(4), the rate of interest on section 6603 deposits is 2 percent for the second calendar quarter in 2020.

Interest factors for daily compound interest for annual rates of 2.5 percent, 4 percent, 5 percent and 7 percent are published in Tables 58, 61, 63, and 67 of Rev. Proc. 95-17, 1995-1 C.B. 612, 615, 617, and 621.

Annual interest rates to be compounded daily pursuant to section 6622 that apply for prior periods are set forth in the tables accompanying this revenue ruling.

DRAFTING INFORMATION

The principal author of this revenue ruling is Casey R. Conrad of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this revenue ruling, contact Mr. Conrad at (202) 317-6844 (not a toll-free number).

APPENDIX A

365 Day Year
0.5% Compound Rate 184 Days

Days	Factor	Days	Factor	Days	Factor
1	0.000013699	63	0.000863380	125	0.001713784
2	0.000027397	64	0.000877091	126	0.001727506
3	0.000041096	65	0.000890801	127	0.001741228
4	0.000054796	66	0.000904512	128	0.001754951
5	0.000068495	67	0.000918223	129	0.001768673
6	0.000082195	68	0.000931934	130	0.001782396
7	0.000095894	69	0.000945646	131	0.001796119
8	0.000109594	70	0.000959357	132	0.001809843
9	0.000123294	71	0.000973069	133	0.001823566
10	0.000136995	72	0.000986781	134	0.001837290
11	0.000150695	73	0.001000493	135	0.001851013
12	0.000164396	74	0.001014206	136	0.001864737
13	0.000178097	75	0.001027918	137	0.001878462
14	0.000191798	76	0.001041631	138	0.001892186
15	0.000205499	77	0.001055344	139	0.001905910
16	0.000219201	78	0.001069057	140	0.001919635
17	0.000232902	79	0.001082770	141	0.001933360
18	0.000246604	80	0.001096484	142	0.001947085
19	0.000260306	81	0.001110197	143	0.001960811
20	0.000274008	82	0.001123911	144	0.001974536
21	0.000287711	83	0.001137625	145	0.001988262
22	0.000301413	84	0.001151339	146	0.002001988
23	0.000315116	85	0.001165054	147	0.002015714
24	0.000328819	86	0.001178768	148	0.002029440
25	0.000342522	87	0.001192483	149	0.002043166
26	0.000356225	88	0.001206198	150	0.002056893
27	0.000369929	89	0.001219913	151	0.002070620
28	0.000383633	90	0.001233629	152	0.002084347
29	0.000397336	91	0.001247344	153	0.002098074
30	0.000411041	92	0.001261060	154	0.002111801
31	0.000424745	93	0.001274776	155	0.002125529
32	0.000438449	94	0.001288492	156	0.002139257
33	0.000452154	95	0.001302208	157	0.002152985
34	0.000465859	96	0.001315925	158	0.002166713
35	0.000479564	97	0.001329641	159	0.002180441
36	0.000493269	98	0.001343358	160	0.002194169
37	0.000506974	99	0.001357075	161	0.002207898
38	0.000520680	100	0.001370792	162	0.002221627
39	0.000534386	101	0.001384510	163	0.002235356
40	0.000548092	102	0.001398227	164	0.002249085
41	0.000561798	103	0.001411945	165	0.002262815

42	0.000575504	104	0.001425663	166	0.002276544
43	0.000589211	105	0.001439381	167	0.002290274
44	0.000602917	106	0.001453100	168	0.002304004
45	0.000616624	107	0.001466818	169	0.002317734
46	0.000630331	108	0.001480537	170	0.002331465
47	0.000644039	109	0.001494256	171	0.002345195
48	0.000657746	110	0.001507975	172	0.002358926
49	0.000671454	111	0.001521694	173	0.002372657
50	0.000685161	112	0.001535414	174	0.002386388
51	0.000698869	113	0.001549133	175	0.002400120
52	0.000712578	114	0.001562853	176	0.002413851
53	0.000726286	115	0.001576573	177	0.002427583
54	0.000739995	116	0.001590293	178	0.002441315
55	0.000753703	117	0.001604014	179	0.002455047
56	0.000767412	118	0.001617734	180	0.002468779
57	0.000781121	119	0.001631455	181	0.002482511
58	0.000794831	120	0.001645176	182	0.002496244
59	0.000808540	121	0.001658897	183	0.002509977
60	0.000822250	122	0.001672619	184	0.002523710
61	0.000835960	123	0.001686340		
62	0.000849670	124	0.001700062		

366 Day Year
0.5% Compound Rate 184 Days

Days	Factor	Days	Factor	Days	Factor
1	0.000013661	63	0.000861020	125	0.001709097
2	0.000027323	64	0.000874693	126	0.001722782
3	0.000040984	65	0.000888366	127	0.001736467
4	0.000054646	66	0.000902040	128	0.001750152
5	0.000068308	67	0.000915713	129	0.001763837
6	0.000081970	68	0.000929387	130	0.001777522
7	0.000095632	69	0.000943061	131	0.001791208
8	0.000109295	70	0.000956735	132	0.001804893
9	0.000122958	71	0.000970409	133	0.001818579
10	0.000136620	72	0.000984084	134	0.001832265
11	0.000150283	73	0.000997758	135	0.001845951
12	0.000163947	74	0.001011433	136	0.001859638
13	0.000177610	75	0.001025108	137	0.001873324
14	0.000191274	76	0.001038783	138	0.001887011
15	0.000204938	77	0.001052459	139	0.001900698
16	0.000218602	78	0.001066134	140	0.001914385
17	0.000232266	79	0.001079810	141	0.001928073
18	0.000245930	80	0.001093486	142	0.001941760
19	0.000259595	81	0.001107162	143	0.001955448
20	0.000273260	82	0.001120839	144	0.001969136
21	0.000286924	83	0.001134515	145	0.001982824
22	0.000300590	84	0.001148192	146	0.001996512
23	0.000314255	85	0.001161869	147	0.002010201
24	0.000327920	86	0.001175546	148	0.002023889
25	0.000341586	87	0.001189223	149	0.002037578
26	0.000355252	88	0.001202900	150	0.002051267
27	0.000368918	89	0.001216578	151	0.002064957
28	0.000382584	90	0.001230256	152	0.002078646
29	0.000396251	91	0.001243934	153	0.002092336
30	0.000409917	92	0.001257612	154	0.002106025
31	0.000423584	93	0.001271291	155	0.002119715
32	0.000437251	94	0.001284969	156	0.002133405
33	0.000450918	95	0.001298648	157	0.002147096
34	0.000464586	96	0.001312327	158	0.002160786
35	0.000478253	97	0.001326006	159	0.002174477
36	0.000491921	98	0.001339685	160	0.002188168
37	0.000505589	99	0.001353365	161	0.002201859
38	0.000519257	100	0.001367044	162	0.002215550
39	0.000532925	101	0.001380724	163	0.002229242
40	0.000546594	102	0.001394404	164	0.002242933
41	0.000560262	103	0.001408085	165	0.002256625
42	0.000573931	104	0.001421765	166	0.002270317

43	0.000587600	105	0.001435446	167	0.002284010
44	0.000601269	106	0.001449127	168	0.002297702
45	0.000614939	107	0.001462808	169	0.002311395
46	0.000628608	108	0.001476489	170	0.002325087
47	0.000642278	109	0.001490170	171	0.002338780
48	0.000655948	110	0.001503852	172	0.002352473
49	0.000669618	111	0.001517533	173	0.002366167
50	0.000683289	112	0.001531215	174	0.002379860
51	0.000696959	113	0.001544897	175	0.002393554
52	0.000710630	114	0.001558580	176	0.002407248
53	0.000724301	115	0.001572262	177	0.002420942
54	0.000737972	116	0.001585945	178	0.002434636
55	0.000751643	117	0.001599628	179	0.002448331
56	0.000765315	118	0.001613311	180	0.002462025
57	0.000778986	119	0.001626994	181	0.002475720
58	0.000792658	120	0.001640678	182	0.002489415
59	0.000806330	121	0.001654361	183	0.002503110
60	0.000820003	122	0.001668045	184	0.002516806
61	0.000833675	123	0.001681729		
62	0.000847348	124	0.001695413		

TABLE OF INTEREST RATES
PERIODS BEFORE JUL. 1, 1975 - PERIODS ENDING DEC. 31, 1986
OVERPAYMENTS AND UNDERPAYMENTS

		PERIOD			RATE		In 1995-1 C.B. DAILY RATE TABLE		
Before		Jul.	1,	1975	6%	Table	2,	pg.	557
Jul.	1,	1975-Jan.	31,	1976	9%	Table	4,	pg.	559
Feb.	1,	1976-Jan.	31,	1978	7%	Table	3,	pg.	558
Feb.	1,	1978-Jan.	31,	1980	6%	Table	2,	pg.	557
Feb.	1,	1980-Jan.	31,	1982	12%	Table	5,	pg.	560
Feb.	1,	1982-Dec.	31,	1982	20%	Table	6,	pg.	560
Jan.	1,	1983-Jun.	30,	1983	16%	Table	37,	pg.	591
Jul.	1,	1983-Dec.	31,	1983	11%	Table	27,	pg.	581
Jan.	1,	1984-Jun.	30,	1984	11%	Table	75,	pg.	629
Jul.	1,	1984-Dec.	31,	1984	11%	Table	75,	pg.	629
Jan.	1,	1985-Jun.	30,	1985	13%	Table	31,	pg.	585
Jul.	1,	1985-Dec.	31,	1985	11%	Table	27,	pg.	581
Jan.	1,	1986-Jun.	30,	1986	10%	Table	25,	pg.	579
Jul.	1,	1986-Dec.	31,	1986	9%	Table	23,	pg.	577

TABLE OF INTEREST RATES
FROM JAN. 1, 1987 - Dec. 31, 1998

					OVERPAYMENTS			UNDERPAYMENTS		
					1995-1 C.B.			1995-1 C.B. RATE		
					RATE	TABLE	PG	RATE	TABLE	PG
Jan.	1,	1987-Mar.	31,	1987	8%	21	575	9%	23	577
Apr.	1,	1987-Jun.	30,	1987	8%	21	575	9%	23	577
Jul.	1,	1987-Sep.	30,	1987	8%	21	575	9%	23	577
Oct.	1,	1987-Dec.	31,	1987	9%	23	577	10%	25	579
Jan.	1,	1988-Mar.	31,	1988	10%	73	627	11%	75	629
Apr.	1,	1988-Jun.	30,	1988	9%	71	625	10%	73	627
Jul.	1,	1988-Sep.	30,	1988	9%	71	625	10%	73	627
Oct.	1,	1988-Dec.	31,	1988	10%	73	627	11%	75	629
Jan.	1,	1989-Mar.	31,	1989	10%	25	579	11%	27	581
Apr.	1,	1989-Jun.	30,	1989	11%	27	581	12%	29	583
Jul.	1,	1989-Sep.	30,	1989	11%	27	581	12%	29	583
Oct.	1,	1989-Dec.	31,	1989	10%	25	579	11%	27	581
Jan.	1,	1990-Mar.	31,	1990	10%	25	579	11%	27	581
Apr.	1,	1990-Jun.	30,	1990	10%	25	579	11%	27	581
Jul.	1,	1990-Sep.	30,	1990	10%	25	579	11%	27	581
Oct.	1,	1990-Dec.	31,	1990	10%	25	579	11%	27	581
Jan.	1,	1991-Mar.	31,	1991	10%	25	579	11%	27	581

Apr.	1,	1991–Jun.	30,	1991	9%	23	577	10%	25	579
Jul.	1,	1991–Sep.	30,	1991	9%	23	577	10%	25	579
Oct.	1,	1991–Dec.	31,	1991	9%	23	577	10%	25	579
Jan.	1,	1992–Mar.	31,	1992	8%	69	623	9%	71	625
Apr.	1,	1992–Jun.	30,	1992	7%	67	621	8%	69	623
Jul.	1,	1992–Sep.	30,	1992	7%	67	621	8%	69	623
Oct.	1,	1992–Dec.	31,	1992	6%	65	619	7%	67	621
Jan.	1,	1993–Mar.	31,	1993	6%	17	571	7%	19	573
Apr.	1,	1993–Jun.	30,	1993	6%	17	571	7%	19	573
Jul.	1,	1993–Sep.	30,	1993	6%	17	571	7%	19	573
Oct.	1,	1993–Dec.	31,	1993	6%	17	571	7%	19	573
Jan.	1,	1994–Mar.	31,	1994	6%	17	571	7%	19	573
Apr.	1,	1994–Jun.	30,	1994	6%	17	571	7%	19	573
Jul.	1,	1994–Sep.	30,	1994	7%	19	573	8%	21	575
Oct.	1,	1994–Dec.	31,	1994	8%	21	575	9%	23	577
Jan.	1,	1995–Mar.	31,	1995	8%	21	575	9%	23	577
Apr.	1,	1995–Jun.	30,	1995	9%	23	577	10%	25	579
Jul.	1,	1995–Sep.	30,	1995	8%	21	575	9%	23	577
Oct.	1,	1995–Dec.	31,	1995	8%	21	575	9%	23	577
Jan.	1,	1996–Mar.	31,	1996	8%	69	623	9%	71	625
Apr.	1,	1996–Jun.	30,	1996	7%	67	621	8%	69	623
Jul.	1,	1996–Sep.	30,	1996	8%	69	623	9%	71	625
Oct.	1,	1996–Dec.	31,	1996	8%	69	623	9%	71	625
Jan.	1,	1997–Mar.	31,	1997	8%	21	575	9%	23	577
Apr.	1,	1997–Jun.	30,	1997	8%	21	575	9%	23	577
Jul.	1,	1997–Sep.	30,	1997	8%	21	575	9%	23	577
Oct.	1,	1997–Dec.	31,	1997	8%	21	575	9%	23	577
Jan.	1,	1998–Mar.	31,	1998	8%	21	575	9%	23	577
Apr.	1,	1998–Jun.	30,	1998	7%	19	573	8%	21	575
Jul.	1,	1998–Sep.	30,	1998	7%	19	573	8%	21	575
Oct.	1,	1998–Dec.	31,	1998	7%	19	573	8%	21	575

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 - PRESENT
NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS

					1995-1 C.B.		
					RATE	TABLE	PAGE
Jan.	1,	1999–Mar.	31,	1999	7%	19	573
Apr.	1,	1999–Jun.	30,	1999	8%	21	575
Jul.	1,	1999–Sep.	30,	1999	8%	21	575
Oct.	1,	1999–Dec.	31,	1999	8%	21	575
Jan.	1,	2000–Mar.	31,	2000	8%	69	623
Apr.	1,	2000–Jun.	30,	2000	9%	71	625
Jul.	1,	2000–Sep.	30,	2000	9%	71	625
Oct.	1,	2000–Dec.	31,	2000	9%	71	625
Jan.	1,	2001–Mar.	31,	2001	9%	23	577
Apr.	1,	2001–Jun.	30,	2001	8%	21	575
Jul.	1,	2001–Sep.	30,	2001	7%	19	573
Oct.	1,	2001–Dec.	31,	2001	7%	19	573
Jan.	1,	2002–Mar.	31,	2002	6%	17	571
Apr.	1,	2002–Jun.	30,	2002	6%	17	571
Jul.	1,	2002–Sep.	30,	2002	6%	17	571
Oct.	1,	2002–Dec.	31,	2002	6%	17	571
Jan.	1,	2003–Mar.	31,	2003	5%	15	569
Apr.	1,	2003–Jun.	30,	2003	5%	15	569
Jul.	1,	2003–Sep.	30,	2003	5%	15	569
Oct.	1,	2003–Dec.	31,	2003	4%	13	567
Jan.	1,	2004–Mar.	31,	2004	4%	61	615
Apr.	1,	2004–Jun.	30,	2004	5%	63	617
Jul.	1,	2004–Sep.	30,	2004	4%	61	615
Oct.	1,	2004–Dec.	31,	2004	5%	63	617
Jan.	1,	2005–Mar.	31,	2005	5%	15	569
Apr.	1,	2005–Jun.	30,	2005	6%	17	571
Jul.	1,	2005–Sep.	30,	2005	6%	17	571
Oct.	1,	2005–Dec.	31,	2005	7%	19	573
Jan.	1,	2006–Mar.	31,	2006	7%	19	573
Apr.	1,	2006–Jun.	30,	2006	7%	19	573
Jul.	1,	2006–Sep.	30,	2006	8%	21	575
Oct.	1,	2006–Dec.	31,	2006	8%	21	575
Jan.	1,	2007–Mar.	31,	2007	8%	21	575
Apr.	1,	2007–Jun.	30,	2007	8%	21	575
Jul.	1,	2007–Sep.	30,	2007	8%	21	575
Oct.	1,	2007–Dec.	31,	2007	8%	21	575
Jan.	1,	2008–Mar.	31,	2008	7%	67	621
Apr.	1,	2008–Jun.	30,	2008	6%	65	619
Jul.	1,	2008–Sep.	30,	2008	5%	63	617
Oct.	1,	2008–Dec.	31,	2008	6%	65	619
Jan.	1,	2009–Mar.	31,	2009	5%	15	569

Apr.	1,	2009–Jun.	30,	2009	4%	13	567
Jul.	1,	2009–Sep.	30,	2009	4%	13	567
Oct.	1,	2009–Dec.	31,	2009	4%	13	567
Jan.	1,	2010–Mar.	31,	2010	4%	13	567
Apr.	1,	2010–Jun.	30,	2010	4%	13	567
Jul.	1,	2010–Sep.	30,	2010	4%	13	567
Oct.	1,	2010–Dec.	31,	2010	4%	13	567
Jan.	1,	2011–Mar.	31,	2011	3%	11	565
Apr.	1,	2011—Jun.	30,	2011	4%	13	567
Jul.	1,	2011—Sep.	30,	2011	4%	13	567
Oct.	1,	2011—Dec.	31,	2011	3%	11	565
Jan.	1,	2012—Mar.	31,	2012	3%	59	613
Apr.	1,	2012—Jun.	30,	2012	3%	59	613
Jul.	1,	2012—Sep.	30,	2012	3%	59	613
Oct.	1,	2012—Dec.	31,	2012	3%	59	613
Jan.	1,	2013—Mar.	31,	2013	3%	11	565
Apr.	1,	2013—Jun.	30,	2013	3%	11	565
Jul.	1,	2013—Sep.	30,	2013	3%	11	565
Oct.	1,	2013—Dec.	31,	2013	3%	11	565
Jan.	1,	2014—Mar.	31,	2014	3%	11	565
Apr.	1,	2014—Jun.	30,	2014	3%	11	565
Jul.	1,	2014—Sep.	30,	2014	3%	11	565
Oct.	1,	2014—Dec.	31,	2014	3%	11	565
Jan.	1,	2015—Mar.	31,	2015	3%	11	565
Apr.	1,	2015—Jun.	30,	2015	3%	11	565
Jul.	1,	2015—Sep.	30,	2015	3%	11	565
Oct.	1,	2015—Dec.	31,	2015	3%	11	565
Jan.	1,	2016—Mar.	31,	2016	3%	59	613
Apr.	1,	2016—Jun.	30,	2016	4%	61	615
Jul.	1,	2016—Sep.	30,	2016	4%	61	615
Oct.	1,	2016—Dec.	31,	2016	4%	61	615
Jan.	1,	2017—Mar.	31,	2017	4%	13	567
Apr.	1,	2017—Jun.	30,	2017	4%	13	567
Jul.	1,	2017—Sep.	30,	2017	4%	13	567
Oct.	1,	2017—Dec.	31,	2017	4%	13	567
Jan.	1,	2018—Mar.	31,	2018	4%	13	567
Apr.	1,	2018–Jun.	30,	2018	5%	15	569
Jul.	1,	2018–Sep.	30,	2018	5%	15	569
Oct.	1,	2018–Dec.	31,	2018	5%	15	569
Jan.	1,	2019–Mar.	31,	2019	6%	17	571
Apr.	1,	2019–Jun.	30,	2019	6%	17	571
Jul.	1,	2019–Sep.	30,	2019	5%	15	569
Oct.	1,	2019–Dec.	31,	2019	5%	15	569
Jan.	1,	2020–Mar.	31,	2020	5%	63	617
Apr.	1,	2020–Jun.	30,	2020	5%	63	617

TABLE OF INTEREST RATES FROM JANUARY 1, 1999 - PRESENT
CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

					OVERPAYMENTS			UNDERPAYMENTS		
					1995-1 C.B.			1995-1 C.B.		
					RATE	TABLE	PG	RATE	TABLE	PG
Jan.	1,	1999–Mar.	31,	1999	6%	17	571	7%	19	573
Apr.	1,	1999–Jun.	30,	1999	7%	19	573	8%	21	575
Jul.	1,	1999–Sep.	30,	1999	7%	19	573	8%	21	575
Oct.	1,	1999–Dec.	31,	1999	7%	19	573	8%	21	575
Jan.	1,	2000–Mar.	31,	2000	7%	67	621	8%	69	623
Apr.	1,	2000–Jun.	30,	2000	8%	69	623	9%	71	625
Jul.	1,	2000–Sep.	30,	2000	8%	69	623	9%	71	625
Oct.	1,	2000–Dec.	31,	2000	8%	69	623	9%	71	625
Jan.	1,	2001–Mar.	31,	2001	8%	21	575	9%	23	577
Apr.	1,	2001–Jun.	30,	2001	7%	19	573	8%	21	575
Jul.	1,	2001–Sep.	30,	2001	6%	17	571	7%	19	573
Oct.	1,	2001–Dec.	31,	2001	6%	17	571	7%	19	573
Jan.	1,	2002–Mar.	31,	2002	5%	15	569	6%	17	571
Apr.	1,	2002–Jun.	30,	2002	5%	15	569	6%	17	571
Jul.	1,	2002–Sep.	30,	2002	5%	15	569	6%	17	571
Oct.	1,	2002–Dec.	31,	2002	5%	15	569	6%	17	571
Jan.	1,	2003–Mar.	31,	2003	4%	13	567	5%	15	569
Apr.	1,	2003–Jun.	30,	2003	4%	13	567	5%	15	569
Jul.	1,	2003–Sep.	30,	2003	4%	13	567	5%	15	569
Oct.	1,	2003–Dec.	31,	2003	3%	11	565	4%	13	567
Jan.	1,	2004–Mar.	31,	2004	3%	59	613	4%	61	615
Apr.	1,	2004–Jun.	30,	2004	4%	61	615	5%	63	617
Jul.	1,	2004–Sep.	30,	2004	3%	59	613	4%	61	615
Oct.	1,	2004–Dec.	31,	2004	4%	61	615	5%	63	617
Jan.	1,	2005–Mar.	31,	2005	4%	13	567	5%	15	569
Apr.	1,	2005–Jun.	30,	2005	5%	15	569	6%	17	571
Jul.	1,	2005–Sep.	30,	2005	5%	15	569	6%	17	571
Oct.	1,	2005–Dec.	31,	2005	6%	17	571	7%	19	573
Jan.	1,	2006–Mar.	31,	2006	6%	17	571	7%	19	573
Apr.	1,	2006–Jun.	30,	2006	6%	17	571	7%	19	573
Jul.	1,	2006–Sep.	30,	2006	7%	19	573	8%	21	575
Oct.	1,	2006–Dec.	31,	2006	7%	19	573	8%	21	575
Jan.	1,	2007–Mar.	31,	2007	7%	19	573	8%	21	575
Apr.	1,	2007–Jun.	30,	2007	7%	19	573	8%	21	575
Jul.	1,	2007–Sep.	30,	2007	7%	19	573	8%	21	575
Oct.	1,	2007–Dec.	31,	2007	7%	19	573	8%	21	575
Jan.	1,	2008–Mar.	31,	2008	6%	65	619	7%	67	621
Apr.	1,	2008–Jun.	30,	2008	5%	63	617	6%	65	619
Jul.	1,	2008–Sep.	30,	2008	4%	61	615	5%	63	617
Oct.	1,	2008–Dec.	31,	2008	5%	63	617	6%	65	619
Jan.	1,	2009–Mar.	31,	2009	4%	13	567	5%	15	569

Apr.	1,	2009–Jun.	30,	2009	3%	11	565	4%	13	567
Jul.	1,	2009–Sep.	30,	2009	3%	11	565	4%	13	567
Oct.	1,	2009–Dec.	31,	2009	3%	11	565	4%	13	567
Jan.	1,	2010–Mar.	31,	2010	3%	11	565	4%	13	567
Apr.	1,	2010–Jun.	30,	2010	3%	11	565	4%	13	567
Jul.	1,	2010–Sep.	30,	2010	3%	11	565	4%	13	567
Oct.	1,	2010–Dec.	31,	2010	3%	11	565	4%	13	567
Jan.	1,	2011–Mar.	31,	2011	2%	9	563	3%	11	565
Apr.	1,	2011–Jun.	30,	2011	3%	11	565	4%	13	567
Jul.	1,	2011–Sep.	30,	2011	3%	11	565	4%	13	567
Oct.	1,	2011–Dec.	31,	2011	2%	9	563	3%	11	565
Jan.	1,	2012–Mar.	31,	2012	2%	57	611	3%	59	613
Apr.	1,	2012–Jun.	30,	2012	2%	57	611	3%	59	613
Jul.	1,	2012–Sep.	30,	2012	2%	57	611	3%	59	613
Oct.	1,	2012–Dec.	31,	2012	2%	57	611	3%	59	613
Jan.	1,	2013–Mar.	31,	2013	2%	9	563	3%	11	565
Apr.	1,	2013–Jun.	30,	2013	2%	9	563	3%	11	565
Jul.	1,	2013–Sep.	30,	2013	2%	9	563	3%	11	565
Oct.	1,	2013–Dec.	31,	2013	2%	9	563	3%	11	565
Jan.	1,	2014–Mar.	31,	2014	2%	9	563	3%	11	565
Apr.	1,	2014–Jun.	30,	2014	2%	9	563	3%	11	565
Jul.	1,	2014–Sep.	30,	2014	2%	9	563	3%	11	565
Oct.	1,	2014–Dec.	31,	2014	2%	9	563	3%	11	565
Jan.	1,	2015–Mar.	31,	2015	2%	9	563	3%	11	565
Apr.	1,	2015–Jun.	30,	2015	2%	9	563	3%	11	565
Jul.	1,	2015–Sep.	30,	2015	2%	9	563	3%	11	565
Oct.	1,	2015–Dec.	31,	2015	2%	9	563	3%	11	565
Jan.	1,	2016–Mar.	31,	2016	2%	57	611	3%	59	613
Apr.	1,	2016–Jun.	30,	2016	3%	59	613	4%	61	615
Jul.	1,	2016–Sep.	30,	2016	3%	59	613	4%	61	615
Oct.	1,	2016–Dec.	31,	2016	3%	59	613	4%	61	615
Jan.	1,	2017–Mar.	31,	2017	3%	11	565	4%	13	567
Apr.	1,	2017–Jun.	30,	2017	3%	11	565	4%	13	567
Jul.	1,	2017–Sep.	30,	2017	3%	11	565	4%	13	567
Oct.	1,	2017–Dec.	31,,	2017	3%	11	565	4%	13	567
Jan.	1,	2018–Mar.	31,	2018	3%	11	565	4%	13	567
Apr.	1,	2018–Jun.	30,	2018	4%	13	567	5%	15	569
Jul.	1,	2018–Sep.	30,	2018	4%	13	567	5%	15	569
Oct.	1,	2018–Dec.	31,	2018	4%	13	567	5%	15	569
Jan.	1,	2019–Mar.	31,	2019	5%	15	569	6%	17	571
Apr.	1,	2019–Jun.	30,	2019	5%	15	569	6%	17	571
Jul.	1,	2019–Sep.	30,	2019	4%	13	567	5%	15	569
Oct.	1,	2019–Dec.	31,	2019	4%	13	567	5%	15	569
Jan.	1,	2020–Mar.	31,	2020	4%	61	615	5%	63	617
Apr.	1,	2020–Jun.	30,	2020	4%	61	615	5%	63	617

TABLE OF INTEREST RATES FOR LARGE CORPORATE UNDERPAYMENTS
FROM JANUARY 1, 1991 - PRESENT

					1995-1 C.B.		
					RATE	TABLE	PG
Jan.	1,	1991–Mar.	31,	1991	13%	31	585
Apr.	1,	1991–Jun.	30,	1991	12%	29	583
Jul.	1,	1991–Sep.	30,	1991	12%	29	583
Oct.	1,	1991–Dec.	31,	1991	12%	29	583
Jan.	1,	1992–Mar.	31,	1992	11%	75	629
Apr.	1,	1992–Jun.	30,	1992	10%	73	627
Jul.	1,	1992–Sep.	30,	1992	10%	73	627
Oct.	1,	1992–Dec.	31,	1992	9%	71	625
Jan.	1,	1993–Mar.	31,	1993	9%	23	577
Apr.	1,	1993–Jun.	30,	1993	9%	23	577
Jul.	1,	1993–Sep.	30,	1993	9%	23	577
Oct.	1,	1993–Dec.	31,	1993	9%	23	577
Jan.	1,	1994–Mar.	31,	1994	9%	23	577
Apr.	1,	1994–Jun.	30,	1994	9%	23	577
Jul.	1,	1994–Sep.	30,	1994	10%	25	579
Oct.	1,	1994–Dec.	31,	1994	11%	27	581
Jan.	1,	1995–Mar.	31,	1995	11%	27	581
Apr.	1,	1995–Jun.	30,	1995	12%	29	583
Jul.	1,	1995–Sep.	30,	1995	11%	27	581
Oct.	1,	1995–Dec.	31,	1995	11%	27	581
Jan.	1,	1996–Mar.	31,	1996	11%	75	629
Apr.	1,	1996–Jun.	30,	1996	10%	73	627
Jul.	1,	1996–Sep.	30,	1996	11%	75	629
Oct.	1,	1996–Dec.	31,	1996	11%	75	629
Jan.	1,	1997–Mar.	31,	1997	11%	27	581
Apr.	1,	1997–Jun.	30,	1997	11%	27	581
Jul.	1,	1997–Sep.	30,	1997	11%	27	581
Oct.	1,	1997–Dec.	31,	1997	11%	27	581
Jan.	1,	1998–Mar.	31,	1998	11%	27	581
Apr.	1,	1998–Jun.	30,	1998	10%	25	579
Jul.	1,	1998–Sep.	30,	1998	10%	25	579
Oct.	1,	1998–Dec.	31,	1998	10%	25	579
Jan.	1,	1999–Mar.	31,	1999	9%	23	577
Apr.	1,	1999–Jun.	30,	1999	10%	25	579
Jul.	1,	1999–Sep.	30,	1999	10%	25	579
Oct.	1,	1999–Dec.	31,	1999	10%	25	579
Jan.	1,	2000–Mar.	31,	2000	10%	73	627
Apr.	1,	2000–Jun.	30,	2000	11%	75	629
Jul.	1,	2000–Sep.	30,	2000	11%	75	629
Oct.	1,	2000–Dec.	31,	2000	11%	75	629
Jan.	1,	2001–Mar.	31,	2001	11%	27	581

Apr.	1,	2001–Jun.	30,	2001	10%	25	579
Jul.	1,	2001–Sep.	30,	2001	9%	23	577
Oct.	1,	2001–Dec.	31,	2001	9%	23	577
Jan.	1,	2002–Mar.	31,	2002	8%	21	575
Apr.	1,	2002–Jun.	30,	2002	8%	21	575
Jul.	1,	2002–Sep.	30,	2002	8%	21	575
Oct.	1,	2002–Dec.	31,	2002	8%	21	575
Jan.	1,	2003–Mar.	31,	2003	7%	19	573
Apr.	1,	2003–Jun.	30,	2003	7%	19	573
Jul.	1,	2003–Sep.	30,	2003	7%	19	573
Oct.	1,	2003–Dec.	31,	2003	6%	17	571
Jan.	1,	2004–Mar.	31,	2004	6%	65	619
Apr.	1,	2004–Jun.	30,	2004	7%	67	621
Jul.	1,	2004–Sep.	30,	2004	6%	65	619
Oct.	1,	2004–Dec.	31,	2004	7%	67	621
Jan.	1,	2005–Mar.	31,	2005	7%	19	573
Apr.	1,	2005–Jun.	30,	2005	8%	21	575
Jul.	1,	2005–Sep.	30,	2005	8%	21	575
Oct.	1,	2005–Dec.	31,	2005	9%	23	577
Jan.	1,	2006–Mar.	31,	2006	9%	23	577
Apr.	1,	2006–Jun.	30,	2006	9%	23	577
Jul.	1,	2006–Sep.	30,	2006	10%	25	579
Oct.	1,	2006–Dec.	31,	2006	10%	25	579
Jan.	1,	2007–Mar.	31,	2007	10%	25	579
Apr.	1,	2007–Jun.	30,	2007	10%	25	579
Jul.	1,	2007–Sep.	30,	2007	10%	25	579
Oct.	1,	2007–Dec.	31,	2007	10%	25	579
Jan.	1,	2008–Mar.	31,	2008	9%	71	625
Apr.	1,	2008–Jun.	30,	2008	8%	69	623
Jul.	1,	2008–Sep.	30,	2008	7%	67	621
Oct.	1,	2008–Dec.	31,	2008	8%	69	623
Jan.	1,	2009–Mar.	31,	2009	7%	19	573
Apr.	1,	2009–Jun.	30,	2009	6%	17	571
Jul.	1,	2009–Sep.	30,	2009	6%	17	571
Oct.	1,	2009–Dec.	31,	2009	6%	17	571
Jan.	1,	2010–Mar.	31,	2010	6%	17	571
Apr.	1,	2010–Jun.	30,	2010	6%	17	571
Jul.	1,	2010–Sep.	30,	2010	6%	17	571
Oct.	1,	2010–Dec.	31,	2010	6%	17	571
Jan.	1,	2011–Mar.	31,	2011	5%	15	569
Apr.	1,	2011–Jun.	30,	2011	6%	17	571
Jul.	1,	2011–Sep.	30,	2011	6%	17	571
Oct.	1,	2011–Dec.	31,	2011	5%	15	569
Jan.	1,	2012–Mar.	31,	2012	5%	63	617
Apr.	1,	2012–Jun.	30,	2012	5%	63	617

Jul.	1,	2012–Sep.	30,	2012	5%	63	617
Oct.	1,	2012–Dec.	31,	2012	5%	63	617
Jan.	1,	2013–Mar.	31,	2013	5%	15	569
Apr.	1,	2013–Jun.	30,	2013	5%	15	569
Jul.	1,	2013–Sep.	30,	2013	5%	15	569
Oct.	1,	2013–Dec.	31,	2013	5%	15	569
Jan.	1,	2014–Mar.	31,	2014	5%	15	569
Apr.	1,	2014–Jun.	30,	2014	5%	15	569
Jul.	1,	2014–Sep.	30,	2014	5%	15	569
Oct.	1,	2014–Dec.	31,	2014	5%	15	569
Jan.	1,	2015–Mar.	31,	2015	5%	15	569
Apr.	1,	2015–Jun.	30,	2015	5%	15	569
Jul.	1,	2015–Sep.	30,	2015	5%	15	569
Oct.	1,	2015–Dec.	31,	2015	5%	15	569
Jan.	1,	2016–Mar.	31,	2016	5%	63	617
Apr.	1,	2016–Jun.	30,	2016	6%	65	619
Jul.	1,	2016–Sep.	30,	2016	6%	65	619
Oct.	1,	2016–Dec.	31,	2016	6%	65	619
Jan.	1,	2017–Mar.	31,	2017	6%	17	571
Apr.	1,	2017–Jun.	30,	2017	6%	17	571
Jul.	1,	2017–Sep.	30,	2017	6%	17	571
Oct.	1,	2017–Dec.	31,	2017	6%	17	571
Jan.	1,	2018–Mar.	31,	2018	6%	17	571
Apr.	1,	2018–Jun.	30,	2018	7%	19	573
Jul.	1,	2018–Sep.	30,	2018	7%	19	573
Oct.	1,	2018–Dec.	31,	2018	7%	19	573
Jan.	1,	2019–Mar.	31,	2019	8%	21	575
Apr.	1,	2019–Jun.	30,	2019	8%	21	575
Jul.	1,	2019–Sep.	30,	2019	7%	19	573
Oct.	1,	2019–Dec.	31,	2019	7%	19	573
Jan.	1,	2020–Mar.	31,	2020	7%	67	621
Apr.	1,	2020–Jun.	30,	2020	7%	67	621

TABLE OF INTEREST RATES FOR CORPORATE
OVERPAYMENTS EXCEEDING \$10,000
FROM JANUARY 1, 1995 – PRESENT

					1995-1 C.B.		
					RATE	TABLE	PG
Jan.	1,	1995–Mar.	31,	1995	6.5%	18	572
Apr.	1,	1995–Jun.	30,	1995	7.5%	20	574
Jul.	1,	1995–Sep.	30,	1995	6.5%	18	572
Oct.	1,	1995–Dec.	31,	1995	6.5%	18	572
Jan.	1,	1996–Mar.	31,	1996	6.5%	66	620
Apr.	1,	1996–Jun.	30,	1996	5.5%	64	618
Jul.	1,	1996–Sep.	30,	1996	6.5%	66	620
Oct.	1,	1996–Dec.	31,	1996	6.5%	66	620
Jan.	1,	1997–Mar.	31,	1997	6.5%	18	572
Apr.	1,	1997–Jun.	30,	1997	6.5%	18	572
Jul.	1,	1997–Sep.	30,	1997	6.5%	18	572
Oct.	1,	1997–Dec.	31,	1997	6.5%	18	572
Jan.	1,	1998–Mar.	31,	1998	6.5%	18	572
Apr.	1,	1998–Jun.	30,	1998	5.5%	16	570
Jul.	1,	1998–Sep.	30,	1998	5.5%	16	570
Oct.	1,	1998–Dec.	31,	1998	5.5%	16	570
Jan.	1,	1999–Mar.	31,	1999	4.5%	14	568
Apr.	1,	1999–Jun.	30,	1999	5.5%	16	570
Jul.	1,	1999–Sep.	30,	1999	5.5%	16	570
Oct.	1,	1999–Dec.	31,	1999	5.5%	16	570
Jan.	1,	2000–Mar.	31,	2000	5.5%	64	618
Apr.	1,	2000–Jun.	30,	2000	6.5%	66	620
Jul.	1,	2000–Sep.	30,	2000	6.5%	66	620
Oct.	1,	2000–Dec.	31,	2000	6.5%	66	620
Jan.	1,	2001–Mar.	31,	2001	6.5%	18	572
Apr.	1,	2001–Jun.	30,	2001	5.5%	16	570
Jul.	1,	2001–Sep.	30,	2001	4.5%	14	568
Oct.	1,	2001–Dec.	31,	2001	4.5%	14	568
Jan.	1,	2002–Mar.	31,	2002	3.5%	12	566
Apr.	1,	2002–Jun.	30,	2002	3.5%	12	566
Jul.	1,	2002–Sep.	30,	2002	3.5%	12	566
Oct.	1,	2002–Dec.	31,	2002	3.5%	12	566
Jan.	1,	2003–Mar.	31,	2003	2.5%	10	564
Apr.	1,	2003–Jun.	30,	2003	2.5%	10	564
Jul.	1,	2003–Sep.	30,	2003	2.5%	10	564
Oct.	1,	2003–Dec.	31,	2003	1.5%	8	562
Jan.	1,	2004–Mar.	31,	2004	1.5%	56	610
Apr.	1,	2004–Jun.	30,	2004	2.5%	58	612

Jul.	1,	2004–Sep.	30,	2004	1.5%	56	610
Oct.	1,	2004–Dec.	31,	2004	2.5%	58	612
Jan.	1,	2005–Mar.	31,	2005	2.5%	10	564
Apr.	1,	2005–Jun.	30,	2005	3.5%	12	566
Jul.	1,	2005–Sep.	30,	2005	3.5%	12	566
Oct.	1,	2005–Dec.	31,	2005	4.5%	14	568
Jan.	1,	2006–Mar.	31,	2006	4.5%	14	568
Apr.	1,	2006–Jun.	30,	2006	4.5%	14	568
Jul.	1,	2006–Sep.	30,	2006	5.5%	16	570
Oct.	1,	2006–Dec.	31,	2006	5.5%	16	570
Jan.	1,	2007–Mar.	31,	2007	5.5%	16	570
Apr.	1,	2007–Jun.	30,	2007	5.5%	16	570
Jul.	1,	2007–Sep.	30,	2007	5.5%	16	570
Oct.	1,	2007–Dec.	31,	2007	5.5%	16	570
Jan.	1,	2008–Mar.	31,	2008	4.5%	62	616
Apr.	1,	2008–Jun.	30,	2008	3.5%	60	614
Jul.	1,	2008–Sep.	30,	2008	2.5%	58	612
Oct.	1,	2008–Dec.	31,	2008	3.5%	60	614
Jan.	1,	2009–Mar.	31,	2009	2.5%	10	564
Apr.	1,	2009–Jun.	30,	2009	1.5%	8	562
Jul.	1,	2009–Sep.	30,	2009	1.5%	8	562
Oct.	1,	2009–Dec.	31,	2009	1.5%	8	562
Jan.	1,	2010–Mar.	31,	2010	1.5%	8	562
Apr.	1,	2010–Jun.	30,	2010	1.5%	8	562
Jul.	1,	2010–Sep.	30,	2010	1.5%	8	562
Oct.	1,	2010–Dec.	31,	2010	1.5%	8	562
Jan.	1,	2011–Mar.	31,	2011	0.5%*		
Apr.	1,	2011–Jun.	30,	2011	1.5%	8	562
Jul.	1,	2011–Sep.	30,	2011	1.5%	8	562
Oct.	1,	2011–Dec.	31,	2011	0.5%*		
Jan.	1,	2012–Mar.	31,	2012	0.5%*		
Apr.	1,	2012–Jun.	30,	2012	0.5%*		
Jul.	1,	2012–Sep.	30,	2012	0.5%*		
Oct.	1,	2012–Dec.	31,	2012	0.5%*		
Jan.	1,	2013–Mar.	31,	2013	0.5%*		
Apr.	1,	2013–Jun.	30,	2013	0.5%*		
Jul.	1,	2013–Sep.	30,	2013	0.5%*		
Oct.	1,	2013–Dec.	31,	2013	0.5%*		
Jan.	1,	2014–Mar.	31,	2014	0.5%*		
Apr.	1,	2014–Jun.	30,	2014	0.5%*		
Jul.	1,	2014–Sep.	30,	2014	0.5%*		
Oct.	1,	2014–Dec.	31,	2014	0.5%*		

Jan.	1,	2015–Mar.	31,	2015	0.5%*		
Apr.	1,	2015–Jun.	30,	2015	0.5%*		
Jul.	1,	2015–Sep.	30,	2015	0.5%*		
Oct.	1,	2015–Dec.	31,	2015	0.5%*		
Jan.	1,	2016–Mar.	31,	2016	0.5%*		
Apr.	1,	2016–Jun.	30,	2016	1.5%	56	610
Jul.	1,	2016–Sep.	30,	2016	1.5%	56	610
Oct.	1,	2016–Dec.	31,	2016	1.5%	56	610
Jan.	1,	2017–Mar.	31,	2017	1.5%	8	562
Apr.	1,	2017–Jun.	30,	2017	1.5%	8	562
Jul.	1,	2017–Sep.	30,	2017	1.5%	8	562
Oct.	1,	2017–Dec.	31,	2017	1.5%	8	562
Jan.	1,	2018–Mar.	31,	2018	1.5%	8	562
Apr.	1,	2018–Jun.	30,	2018	2.5%	10	564
Jul.	1,	2018–Sep.	30,	2018	2.5%	10	564
Oct.	1,	2018–Dec.	31,	2018	2.5%	10	564
Jan.	1,	2019–Mar.	31,	2019	3.5%	12	566
Apr.	1,	2019–Jun.	30,	2019	3.5%	12	566
Jul.	1,	2019–Sep.	30,	2019	2.5%	10	564
Oct.	1,	2019–Dec.	31,	2019	2.5%	10	564
Jan.	1,	2020–Mar.	31,	2020	2.5%	58	612
Apr.	1,	2020–Jun.	30,	2020	2.5%	58	612

* The asterisk reflects the interest factors for daily compound interest for annual rates of 0.5 percent published in Appendix A of this Revenue Ruling.

Part III

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

(Also: Part I, Sections 6048 and 6677)

Rev. Proc. 2020-17

SECTION 1. PURPOSE

This revenue procedure provides an exemption from the information reporting requirements under section 6048 of the Internal Revenue Code for certain U.S. citizen and resident individuals (U.S. individuals) with respect to their transactions with, and ownership of, certain tax-favored foreign retirement trusts and certain tax-favored foreign nonretirement savings trusts, as described in sections 5.03 and 5.04 of this revenue procedure (collectively, applicable tax-favored foreign trusts). Only eligible individuals described in section 5.02 of this revenue procedure (generally U.S. individuals who have been compliant with respect to their income tax obligations related to such trusts) may rely on this revenue procedure.

In addition, this revenue procedure establishes procedures for eligible individuals to request abatement of penalties that have been assessed or a refund of penalties that have been paid pursuant to section 6677 for the individuals' failure to comply with the information reporting requirements of section 6048 with respect to an applicable tax-favored foreign trust. Eligible individuals may request relief from section 6677 penalties, subject to the limitations of sections 6402 and 6511, in accordance with section 6 of this revenue procedure.

The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to issue proposed regulations that would modify the requirements under section 6048 to exclude eligible individuals' transactions with, or ownership of, these applicable tax-favored foreign trusts from information reporting. The Treasury Department and the IRS request comments about these and other similar types of foreign trusts that should be considered for an exemption from section 6048 reporting.

SECTION 2. BACKGROUND

.01 Section 6048, enacted in 1996, generally requires annual information reporting of a United States person's transfers of money or other property to, ownership of, and distributions from, foreign trusts, and section 6677 imposes penalties on United States persons for failing to comply with section 6048. As relevant here, section 6048(a)(3)(B)(ii) provides an exception from reporting with respect to transfers to foreign compensatory trusts described in section 402(b), 404(a)(4), or 404A. In addition, section 6048(d)(4) authorizes the Secretary to suspend or modify any requirement under section 6048 if the United States has no significant tax interest in obtaining the required information. The Treasury Department and the IRS have previously issued guidance providing that reporting is not required under section 6048(c) with respect to distributions from certain foreign compensatory trusts, provided that the recipient of the distribution reports the distribution as compensation income on an applicable federal income tax return, and that information reporting under section 6048(a) through (c) is not required with respect to certain Canadian retirement plans. *See* Section V of Notice 97-34, 1997-1 C.B. 422; Rev. Proc. 2014-55, 2014-44 I.R.B. 753. Section 6048 information reporting is provided on Form 3520, *Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts*, and Form 3520-A, *Annual Information Return of Foreign Trust With a U.S. Owner (Under section 6048(b))*.

.02 Section 6038D, enacted in 2010, and the regulations thereunder generally require a specified person, which includes a U.S. citizen or resident alien, to report any interest in a specified foreign financial asset provided that the aggregate value of all such assets exceeds certain thresholds. *See* §1.6038D-2(a). Section 6038D(d) imposes a penalty for failing to comply. A specified foreign financial asset includes interests in certain foreign retirement, pension, and non-retirement savings funds or accounts. *See* §§1.6038D-3. Section 6038D information reporting is provided on Form 8938, *Statement of Specified*

Foreign Financial Assets. A specified person who is required to report information under section 6038D on Form 8938 may also be required to report similar identifying information under section 6048 on Form 3520 or Form 3520-A. For more information about section 6038D information reporting, see <https://www.irs.gov/businesses/corporations/basic-questions-and-answers-on-form-8938>.

SECTION 3. INFORMATION REPORTING UNDER SECTION 6048 WITH RESPECT TO APPLICABLE TAX-FAVORED FOREIGN TRUSTS

The Treasury Department and the IRS have determined that, because applicable tax-favored foreign trusts generally are subject to written restrictions, such as contribution limitations, conditions for withdrawal, and information reporting, which are imposed under the laws of the country in which the trust is established, and because U.S. individuals with an interest in these trusts may be required under section 6038D to separately report information about their interests in accounts held by, or through, these trusts, it would be appropriate to exempt U.S. individuals from the requirement to provide information about these trusts under section 6048. Accordingly, pursuant to the authority granted under section 6048(d)(4), the Treasury Department and the IRS are exempting from section 6048 information reporting an eligible individual's transactions with, or ownership of, an applicable tax-favored foreign trust. As a result, the penalties under section 6677 do not apply to eligible individuals who fail to report transactions with, or ownership of, these trusts under section 6048. In addition, eligible individuals who have been assessed penalties under section 6677 for failing to comply with section 6048 with respect to these trusts may, subject to the limitations of sections 6402 and 6511, request abatement of penalties that have been assessed or refund of penalties that have been paid, by following the procedures described in section 6 of this revenue procedure.

This revenue procedure does not affect any reporting obligations under section 6038D or under any other provision

of U.S. law, including the requirement to file FinCEN Form 114, *Report of Foreign Bank and Financial Accounts (FBAR)*, imposed by 31 U.S.C. section 5314 and the regulations thereunder. This revenue procedure does not affect previously issued guidance providing an exception from section 6048 reporting with respect to distributions from certain foreign compensatory trusts under Section V of Notice 97-34, and an exception from all information reporting requirements under section 6048 with respect to certain Canadian retirement plans under Revenue Procedure 2014-55. *See also* section 6048(a)(3)(B)(ii) (providing an exception from reporting with respect to transfers to foreign compensatory trusts described in section 402(b), 404(a)(4), or 404A).

SECTION 4. SCOPE

Sections 3 and 6 of this revenue procedure apply to any eligible individual who, but for this revenue procedure, is (or was) required to report a transaction with, or ownership of, an applicable tax-favored foreign trust under section 6048.

SECTION 5. DEFINITIONS

.01 *Applicable tax-favored foreign trust.* For purposes of this revenue procedure, an applicable tax-favored foreign trust means a tax-favored foreign retirement trust as defined under section 5.03 of this revenue procedure or a tax-favored foreign non-retirement savings trust as defined under section 5.04 of this revenue procedure.

.02 *Eligible Individual.* For purposes of this revenue procedure, an eligible individual means an individual who is, or at any time was, a U.S. citizen or resident (within the meaning of section 7701(a)(30)(A)) and who, for any period during which an amount of tax may be assessed under section 6501 (without regard to section 6501(c)(8)), is compliant (or comes into compliance) with all requirements for filing a U.S. federal income tax return (or returns) covering the period such individual was a U.S. citizen or resident, and to the extent required under U.S. tax law, has reported as income any contributions to, earnings of, or distributions from, an

applicable tax-favored foreign trust on the applicable return (including on an amended return).

.03 *Tax-Favored Foreign Retirement Trust.* For purposes of this revenue procedure, a tax-favored foreign retirement trust means a foreign trust for U.S. tax purposes that is created, organized, or otherwise established under the laws of a foreign jurisdiction (the trust's jurisdiction) as a trust, plan, fund, scheme, or other arrangement (collectively, a trust) to operate exclusively or almost exclusively to provide, or to earn income for the provision of, pension or retirement benefits and ancillary or incidental benefits, and that meets the following requirements established by the laws of the trust's jurisdiction.

(1) The trust is generally exempt from income tax or is otherwise tax-favored under the laws of the trust's jurisdiction. For purposes of this revenue procedure, a trust is tax-favored if it meets any one or more of the following conditions: (i) contributions to the trust that would otherwise be subject to tax are deductible or excluded from income, are taxed at a reduced rate, give rise to a tax credit, or are otherwise eligible for another tax benefit (such as a government subsidy or contribution); and (ii) taxation of investment income earned by the trust is deferred until distribution or the investment income is taxed at a reduced rate.

(2) Annual information reporting with respect to the trust (or of its participants or beneficiaries) is provided, or is otherwise available, to the relevant tax authorities in the trust's jurisdiction.

(3) Only contributions with respect to income earned from the performance of personal services are permitted.

(4) Contributions to the trust are limited by a percentage of earned income of the participant, are subject to an annual limit of \$50,000 or less to the trust, or are subject to a lifetime limit of \$1,000,000 or less to the trust. These contribution limits are determined using the U.S. Treasury Bureau of Fiscal Service foreign currency conversion rate on the last day of the tax year (available at <https://www.fiscal.treasury.gov/reports-statements/treasury-reporting-rates-exchange>).

(5) Withdrawals, distributions, or payments from the trust are conditioned

upon reaching a specified retirement age, disability, or death, or penalties apply to withdrawals, distributions, or payments made before such conditions are met. A trust that otherwise meets the requirements of this section 5.03(5), but that allows withdrawals, distributions, or payments for in-service loans or for reasons such as hardship, educational purposes, or the purchase of a primary residence, will be treated as meeting the requirements of this section 5.03(5).

(6) In the case of an employer-maintained trust, (i) the trust is nondiscriminatory insofar as a wide range of employees, including rank and file employees, must be eligible to make or receive contributions or accrue benefits under the terms of the trust (alone or in combination with other comparable plans), (ii) the trust (alone or in combination with other comparable plans) actually provides significant benefits for a substantial majority of eligible employees, and (iii) the benefits actually provided under the trust to eligible employees are non-discriminatory.

A trust that otherwise meets the requirements of this section 5.03 will not fail to be treated as a tax-favored foreign retirement trust within the meaning of this section solely because it may receive a rollover of assets or funds transferred from another tax-favored foreign retirement trust established and operated under the laws of the same jurisdiction, provided that the trust transferring assets or funds also meets the requirements of this section 5.03.

.04 *Tax-Favored Foreign Non-Retirement Savings Trust.* For purposes of this revenue procedure, a tax-favored foreign non-retirement savings trust means a foreign trust for U.S. tax purposes that is created, organized, or otherwise established under the laws of a foreign jurisdiction (the trust's jurisdiction) as a trust, plan, fund, scheme, or other arrangement (collectively, a trust) to operate exclusively or almost exclusively to provide, or to earn income for the provision of, medical, disability, or educational benefits, and that meets the following requirements established by the laws of the trust's jurisdiction.

(1) The trust is generally exempt from income tax or is otherwise tax-favored un-

der the laws of the trust's jurisdiction as defined in section 5.03(1) of this revenue procedure.

(2) Annual information reporting with respect to the trust (or about the beneficiary or participant) is provided, or is otherwise available, to the relevant tax authorities in the trust's jurisdiction.

(3) Contributions to the trust are limited to \$10,000 or less annually or \$200,000 or less on a lifetime basis, determined using the U.S. Treasury Bureau of Fiscal Service foreign currency conversion rate on the last day of the tax year (available at <https://www.fiscal.treasury.gov/reports-statements/treasury-reporting-rates-exchange>).

(4) Withdrawals, distributions, or payments from the trust are conditioned upon the provision of medical, disability, or educational benefits, or apply penalties to withdrawals, distributions, or payments made before such conditions are met.

A trust that otherwise meets the requirements of this section 5.04 will not fail to be treated as a tax-favored foreign non-retirement savings trust within the meaning of this section 5.04 solely because it may receive a rollover of assets or funds transferred from another tax-favored foreign non-retirement savings trust established and operated under the laws of the same jurisdiction, provided that the trust transferring assets or funds also meets the requirements of this section 5.04.

SECTION 6. PROCEDURES FOR REQUESTING ABATEMENT OR REFUND OF SECTION 6677 PENALTIES

.01 *In General.* Subject to the limitations of sections 6402 and 6511, eligible individuals who have been assessed a penalty under section 6677 for failing to comply with section 6048 with respect to an applicable tax-favored foreign trust (without regard to whether such failure was due to reasonable cause under section 6677(d)) and who wish to obtain relief under this revenue procedure may request an abatement of the penalty assessed, or a refund of the penalty paid, under section 6677 by filing Form 843, *Claim for Refund and Request for Abatement*. Eligible individuals are not precluded from requesting relief under any other applicable relief provisions.

Under section 6402(a), the Secretary is authorized to credit, within the applicable period of limitations, an overpayment against any liability in respect of an internal revenue tax of the person who made the overpayment, and must generally refund any balance to that person, subject to the requirements of section 6402(c), (d), (e), and (f) (providing for offset for past-due support and certain debts to federal and state governments). Section 6511(b) (1) provides that no credit or refund shall be allowed or made after the expiration of the period of limitation prescribed in section 6511(a), unless the taxpayer filed

a claim for credit or refund within that period.

.02 *Where to File.* A Form 843 requesting relief under this revenue procedure should be mailed to Internal Revenue Service, Ogden, UT 84201-0027.

.03 *Filing Requirements for Form 843.* Eligible individuals should complete the form and write the statement "Relief pursuant to Revenue Procedure 2020-17" on Line 7 of the form. In addition, Line 7 should include an explanation of how the eligible individual meets each relevant requirement under section 5.02 of this revenue procedure and how the foreign trust meets each relevant requirement under section 5.03 or 5.04 of this revenue procedure.

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective as of the date this revenue procedure is published in the Internal Revenue Bulletin, and applies to all prior open taxable years, subject to the limitations of section 6511.

SECTION 8. DRAFTING INFORMATION

The principal author of this revenue procedure is Tracy M. Villecco of the Office of Associate Chief Counsel (International). For further information regarding this revenue procedure contact Tracy Villecco or Lara Banjanin at (202) 317-6933 (not a toll-free number).

Part IV

Notice of Proposed Rulemaking

Meals and Entertainment Expenses Under Section 274

REG-100814-19

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide guidance under section 274 of the Internal Revenue Code (Code) regarding certain statutory amendments made to section 274 by 2017 legislation. Specifically, the proposed regulations address the elimination of the deduction under section 274 for expenditures related to entertainment, amusement, or recreation activities, and provide guidance to determine whether an activity is of a type generally considered to be entertainment. The proposed regulations also address the limitation on the deduction of food and beverage expenses under section 274(k) and (n), including the applicability of the exceptions under section 274(e)(2), (3), (4), (7), (8), and (9). These proposed regulations affect taxpayers who pay or incur expenses for meals or entertainment in taxable years beginning after December 31, 2017. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by April 13, 2020. Outlines of topics to be discussed at the public hearing scheduled for April 7, 2020, at 10 a.m. must be received by April 13, 2020. If no outlines are received by April 13, 2020.

ADDRESSES: Submit electronic submissions via the Federal Rulemaking Portal at www.regulations.gov (indicate IRS and REG-100814-19) by following

the online instructions for submitting comments. Once submitted to the Federal Rulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) will publish for public availability any comment received to their public docket, whether submitted electronically or in hard copy. Send hard copy submissions to: CC:PA:LPD:PR (REG-100814-19), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION

CONTACT: Concerning the proposed regulations, call Patrick Clinton of the Office of Associate Chief Counsel (Income Tax and Accounting), (202) 317-7005; concerning the submission of comments, the hearing, or to be placed on the building access list to attend the hearing, call Regina Johnson, (202) 317-6901 (not toll-free numbers), or email fdms.database@irs.counsel.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

I. Statutory Framework

This document contains proposed regulations under section 274 of the Code that amend the Income Tax Regulations (26 CFR part 1). Section 274 was added to the Code by section 4 of the Revenue Act of 1962, Public Law 87-834 (76 Stat. 960) and has been amended numerous times over the years. In general, section 274 limits or disallows deductions for certain meal and entertainment expenditures that otherwise would be allowable under chapter 1 of the Code, primarily under section 162(a), which allows a deduction for ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business.

On December 22, 2017, section 274 was amended by section 13304 of Public Law 115-97 (131 Stat. 2054), commonly referred to as the Tax Cuts and Jobs Act, (TCJA) to revise the rules for deducting

expenditures for meals and entertainment, effective for amounts paid or incurred after December 31, 2017.

II. Business Meals and Entertainment

Section 274(a)(1)(A) generally disallows a deduction for any item with respect to an activity of a type considered to constitute entertainment, amusement, or recreation (entertainment expenditures). However, prior to the amendment by the TCJA, section 274(a)(1)(A) provided exceptions to that disallowance if the taxpayer established that: (1) the item was directly related to the active conduct of the taxpayer's trade or business (directly related exception), or (2) in the case of an item directly preceding or following a substantial and bona fide business discussion (including business meetings at a convention or otherwise), the item was associated with the active conduct of the taxpayer's trade or business (business discussion exception). Section 274(e)(1) through (9) also provides exceptions to the rule in section 274(a) that disallows a deduction for entertainment expenditures. The TCJA did not change the application of the section 274(e) exceptions to entertainment expenditures.

Section 274(a)(1)(B) disallows a deduction for any item with respect to a facility used in connection with an activity referred to in section 274(a)(1)(A). Section 274(a)(2) provides that, for purposes of applying section 274(a)(1), dues or fees to any social, athletic, or sporting club or organization shall be treated as items with respect to facilities. Section 274(a)(3) disallows a deduction for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose.

Prior to amendment by the TCJA, section 274(n)(1) generally limited the deduction of food or beverage expenses and entertainment expenditures to 50 percent of the amount that otherwise would have been allowable. Thus, under prior law, taxpayers could deduct 50 percent of meal expenses and 50 percent of entertainment expenditures that met the directly related or business discussion exception. Distin-

guishing between meal expenses and entertainment expenditures was unnecessary for purposes of the 50 percent limitation.

Section 13304(a)(1) of the TCJA repealed the directly related and business discussion exceptions to the general prohibition on deducting entertainment expenditures in section 274(a)(1)(A). Also, section 13304(a)(2)(D) of the TCJA amended the 50 percent limitation in section 274(n) (1) to remove the reference to entertainment expenditures. Thus, entertainment expenditures are no longer deductible unless one of the nine exceptions to section 274(a) in section 274(e) applies.

While the TCJA eliminated the deduction for entertainment expenses, Congress did not amend the provisions relating to the deductibility of business meals. Thus, taxpayers generally may continue to deduct 50 percent of the food and beverage expenses associated with operating their trade or business, including meals consumed by employees on work travel. See H.R. Rep. No. 115-466, at 407 (2017) (Conf. Rep.). However, as before the TCJA, no deduction is allowed for the expense of any food or beverages unless (a) the expense is not lavish or extravagant under the circumstances, and (b) the taxpayer (or an employee of the taxpayer) is present at the furnishing of the food or beverages. See section 274(k).

Prior to amendment by the TCJA, section 274(d) provided substantiation requirements for deductions under section 162 or 212 for any traveling expense (including meals and lodging while away from home), and for any item with respect to an activity of a type considered to constitute entertainment, amusement, or recreation or with respect to a facility used in connection with such activity. Section 13304(a)(2)(A) of the TCJA repealed the substantiation requirements for entertainment expenditures. Traveling expenses (including meals and lodging while away from home), however, remain subject to the section 274(d) substantiation requirements. Food and beverage expenses are subject to the substantiation requirements under section 162 and the requirement to maintain books and records under section 6001.

On October 15, 2018, the Treasury Department and the IRS published Notice 2018-76, 2018-42 I.R.B. 599, providing

transitional guidance on the deductibility of expenses for certain business meals and requesting comments for future guidance to further clarify the treatment of business meal expenses and entertainment expenditures under section 274. Under the notice, taxpayers may deduct 50 percent of an otherwise allowable business meal expense if: (1) the expense is an ordinary and necessary expense under section 162(a) paid or incurred during the taxable year in carrying on any trade or business; (2) the expense is not lavish or extravagant under the circumstances; (3) the taxpayer, or an employee of the taxpayer, is present at the furnishing of the food or beverages; (4) the food and beverages are provided to a current or potential business customer, client, consultant, or similar business contact; and (5) in the case of food and beverages provided during or at an entertainment activity, the food and beverages are purchased separately from the entertainment, or the cost of the food and beverages is stated separately from the cost of the entertainment on one or more bills, invoices, or receipts. The notice provides that the entertainment disallowance rule may not be circumvented through inflating the amount charged for food and beverages.

The Treasury Department and the IRS received approximately 25 comments in response to Notice 2018-76. All comments were considered and are available at www.regulations.gov or upon request. Several of the comments addressing the notice are summarized in the Explanation of Provisions. However, comments recommending statutory revisions or addressing provisions outside the scope of these proposed regulations are not discussed in this preamble. The Treasury Department and the IRS continue to study comments on issues related to section 274 that are beyond the scope of these proposed regulations and may discuss those comments that are beyond the scope of these regulations in the final regulations or future guidance.

III. Travel Meals

Section 274(n)(1) generally limits the deduction of food or beverage expenses, including expenses for food or beverages consumed while away from home, to 50 percent of the amount that otherwise

would have been allowable, unless one of the six exceptions to section 274(n) in section 274(e) applies. However, no deduction is allowed for the expense of any food or beverages unless (a) the expense is not lavish or extravagant under the circumstances, and (b) the taxpayer (or an employee of the taxpayer) is present at the furnishing of the food or beverages. See section 274(k). Section 274(d) provides substantiation requirements for traveling expenses, including food and beverage expenses incurred while on business travel away from home.

Section 274(m) provides additional limitations on travel expenses. Section 274(m)(1) generally limits the deduction for luxury water transportation expenses to twice the highest federal per diem rate allowable at the time of travel, and section 274(m)(2) generally disallows a deduction for expenses for travel as a form of education. Section 274(m)(3) provides that no deduction is allowed under chapter 1 of the Code (other than section 217) for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel, unless: (A) the spouse, dependent, or other individual is an employee of the taxpayer, (B) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and (C) such expenses would otherwise be deductible by the spouse, dependent, or other individual.

IV. Employer-Provided Meals

Prior to amendment by the TCJA, section 274(n)(1) generally limited the deduction for food or beverage expenses to 50 percent of the amount that otherwise would have been allowable, subject to an exception in section 274(n)(2)(B) in the case of an expense for food or beverages that is excludable from the gross income of the recipient under section 132 by reason of section 132(e), relating to *de minimis* fringes. Section 132(e)(1) defines “*de minimis* fringe” as any property or service the value of which is, after taking into account the frequency with which similar fringes are provided by the employer to its employees, so small as to make accounting for it unreasonable or administratively impracticable. Section 132(e)(2) provides

that the operation by an employer of any eating facility for employees is treated as a *de minimis* fringe if (1) the facility is located on or near the business premises of the employer, and (2) revenue derived from the facility normally equals or exceeds the direct operating costs of the facility. Thus, under prior law, employers generally were allowed to fully deduct an expense for food or beverages provided to their employees if the amount was excludable from the gross income of the employee as a *de minimis* fringe. However, the TCJA repealed section 274(n)(2)(B), meaning that expenses for food or beverages that are *de minimis* fringes under section 132(e) are no longer excepted from section 274(n)(1). As a result, these expenses, like other food or beverage expenses generally, are subject to the 50 percent limitation unless one of the six exceptions to section 274(n) in section 274(e) applies.

V. Section 274(e) Exceptions to Section 274(k) and (n)

Section 274(k)(2) and (n)(2)(A) provide that the limitations on the deduction of food or beverage expenses in sections 274(k)(1) and (n)(1), respectively, do not apply if the expense is described in paragraph (2), (3), (4), (7), (8), or (9) of section 274(e). Expenses described in paragraph (1), (5), and (6) of section 274(e) are not exceptions to the limitations on the deduction of food or beverage expenses in section 274(k)(1) and (n)(1). However, they are exceptions to the disallowance on deduction of entertainment expenses in section 274(a).

Section 274(e)(2) applies to expenses for goods, services, and facilities to the extent that the expenses are treated as compensation to the recipient. Section 274(e)(3) applies to expenses incurred by a taxpayer in connection with the performance of services for an employer or other person under a reimbursement or other expense allowance arrangement. Section 274(e)(4) applies to expenses for recreational, social, or similar activities for employees. Section 274(e)(7) applies to expenses for goods, services, and facilities made available to the general public. Section 274(e)(8) applies to expenses for goods or services that are sold by the tax-

payer in a bona fide transaction for adequate and full consideration in money or money's worth. Section 274(e)(9) applies to expenses for goods, services, and facilities to the extent that the expenses are treated as income to a person other than an employee.

Explanation of Provisions

The proposed regulations describe and clarify the statutory requirements of section 274(a), 274(k), and 274(n), as well as the applicability of certain exceptions under section 274(e) to food or beverage expenses. To implement the TCJA's disallowance of entertainment expenditures under section 274(a), the proposed regulations add a new section at §1.274-11 (proposed §1.274-11) for entertainment expenditures paid or incurred after December 31, 2017. The proposed regulations also add a new section at §1.274-12 (proposed §1.274-12) to address food or beverage expenses under section 274(k) and 274(n) paid or incurred after December 31, 2017, including the application of the exceptions in section 274(e)(2), (3), (4), (7), (8), and (9). Specifically, proposed §1.274-12 addresses expenses for business meals as described in Notice 2018-76, as well as expenses for other meals including travel meals and employer-provided meals.

1. Entertainment Expenditures

A. In General

Proposed §1.274-11 restates the statutory rules under section 274(a), including the application of the entertainment deduction disallowance rule to dues or fees to any social, athletic, or sporting club or organization. The proposed regulations substantially incorporate the existing definition of entertainment in §1.274-2(b)(1), with minor modifications to remove outdated language. The proposed regulations also confirm that the nine exceptions in section 274(e) continue to apply to entertainment expenditures under section 274(a). Finally, as described further in part I.B. of this Explanation of Provisions, the proposed regulations provide that for purposes of section 274(a), the term "entertainment" does not include food or beverages unless the food or beverages

are provided at or during an entertainment activity and the costs of the food or beverages are not separately stated from the entertainment costs.

Taxpayers may continue to rely upon the existing rules in §1.274-2, to the extent applicable and not superseded by the TCJA, for entertainment expenditures paid or incurred after December 31, 2017.

B. Separately Stated Food or Beverages not Entertainment

The proposed regulations substantially incorporate the guidance in Notice 2018-76 to distinguish between entertainment expenditures and food or beverage expenses in the context of business meals provided at or during an entertainment activity. In addition, the proposed regulations generally apply the guidance in Notice 2018-76 to all food or beverages, including travel meals and employer-provided meals, provided at or during an entertainment activity. However, in response to a comment on the notice, the proposed regulations further clarify the rules applicable to food or beverages provided at or during an entertainment activity.

Notice 2018-76 explains that in the case of food and beverages provided during or at an entertainment activity, the taxpayer may deduct 50 percent of an otherwise allowable business expense if the food and beverages are purchased separately from the entertainment, or if the cost of the food and beverages is stated separately from the cost of the entertainment on one or more bills, invoices, or receipts. The notice provides that the entertainment disallowance rule may not be circumvented through inflating the amount charged for food and beverages. Taxpayers may continue to rely on the guidance in Notice 2018-76 until these proposed regulations are finalized.

One commenter asked for clarification of the requirement in the notice that the entertainment disallowance rule may not be circumvented by inflating the amount charged for food and beverages on one or more bills, invoices, or receipts. In response, the proposed regulations provide that the amount charged for food or beverages on a bill, invoice, or receipt must reflect the venue's usual selling cost for those items if they were to be purchased

separately from the entertainment, or must approximate the reasonable value of those items. Further, the proposed regulations provide that unless food or beverages provided at or during an entertainment activity are purchased separately from the entertainment, or the cost of the food or beverages is stated separately from the cost of the entertainment on one or more bills, invoices, or receipts, no allocation can be made and the entire amount is a nondeductible entertainment expenditure. Finally, in accordance with the TCJA's amendments to section 274(a)(1) specifically repealing the "directly related" and "business discussion" exceptions to the general disallowance rule for entertainment expenditures, the proposed regulations clarify that the entertainment disallowance rule applies whether or not the expenditure for the activity is related to or associated with the active conduct of the taxpayer's trade or business. The Treasury Department and the IRS request comments on these rules.

2. Food or Beverage Expenses

A. Business Meal Expenses

As noted earlier in this Explanation of Provisions, the proposed regulations substantially incorporate the guidance in Notice 2018-76 addressing business meals provided during or at an entertainment activity. The proposed regulations also incorporate other statutory requirements taxpayers must meet to deduct 50 percent of an otherwise allowable business meal expense. Specifically, the expense must not be lavish or extravagant under the circumstances and the taxpayer, or an employee of the taxpayer, must be present at the furnishing of the food or beverages.

The proposed regulations also address the general requirement in Notice 2018-76 that the food and beverages be provided to a business contact, which was described in the notice as a "current or potential business customer, client, consultant, or similar business contact." This requirement is to ensure that the meal expenses are directly connected with or pertaining to the taxpayer's trade or business, as required under section 162. One commenter on Notice 2018-76 requested a definition of "potential business contact," suggesting

that the term could be interpreted broadly to include almost anyone. In response to the comment, and to conform the rule more closely to the trade or business requirement in section 162, the proposed regulations follow the definition of "business associate" as currently provided in §1.274-2(b)(2)(iii). Thus, the proposed regulations provide that the food or beverages must be provided to a "person with whom the taxpayer could reasonably expect to engage or deal in the active conduct of the taxpayer's trade or business such as the taxpayer's customer, client, supplier, employee, agent, partner, or professional adviser, whether established or prospective." In addition to clarifying this definition for purposes of determining whether a business meal expense is deductible, the proposed regulations apply this standard to the deduction of food or beverage expenses generally. In particular, the proposed regulations include employees as a type of business associate, making the standard applicable to employer-provided meals as well as to situations in which a taxpayer provides meals to both employees and non-employee business associates at the same event. The Treasury Department and the IRS request comments on this standard.

B. Travel Meal Expenses

Although the TCJA did not specifically amend the rules for travel expenses, the proposed regulations are intended to provide comprehensive rules for food and beverage expenses and thus apply the general rules for meal expenses from Notice 2018-76, as revised in these proposed regulations, to travel meals. In addition, the proposed regulations incorporate the substantiation requirements in section 274(d), unchanged by the TCJA, to travel meals. Finally, the proposed regulations apply the limitations in section 274(m)(3) to expenses for food or beverages paid or incurred while on travel for spouses, dependents or other individuals accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel. These limitations do not apply to deductions for moving expenses under section 217. However, the TCJA amended section 217 to suspend the deduction for moving expenses for taxable years beginning after

December 31, 2017, and before January 1, 2026, except with respect to certain members of the Armed Forces. Thus, the proposed regulations revise the reference to section 217 to reflect that amendment.

C. Other Food or Beverage Expenses

The proposed regulations apply the business meal guidance in Notice 2018-76, as revised in these proposed regulations, to food or beverage expenses generally. Under section 274(n)(1), the deduction for food or beverage expenses generally is limited to 50 percent of the amount that would otherwise be allowable. Prior to the TCJA, under section 274(n)(2)(B), expenses for food or beverages that were excludable from employee income as *de minimis* fringe benefits under section 132(e) were not subject to the 50 percent deduction limitation under section 274(n)(1) and could be fully deducted. The TCJA repealed section 274(n)(2)(B) so that expenses for food or beverages excludable from employee income under section 132(e) are subject to the section 274(n)(1) deduction limitation unless another exception under section 274(n)(2) applies.

Under section 274(k)(1), in order for food or beverage expenses to be deductible the food or beverages must not be lavish or extravagant under the circumstances and the taxpayer or an employee of the taxpayer must be present at the furnishing of the food or beverages. However, as discussed in part E of this Explanation of Provisions, section 274(e) provides six exceptions to the limitations on the deduction of food or beverages in section 274(k)(1) and 274(n)(1) and the proposed regulations explain how those exceptions apply.

In response to comments that the Treasury Department and the IRS received after enactment of the TCJA, the proposed regulations address several scenarios involving the deductibility of food or beverage expenses. For example, commenters requested guidance on the deductibility of expenses for: (i) food or beverages provided to food service workers who consume the food or beverages while working in a restaurant or catering business; (ii) snacks available to employees in a pantry, break room, or copy room; (iii) refreshments provided by a real estate agent at an open

house; (iv) food or beverages provided by a seasonal camp to camp counselors; (v) food or beverages provided to employees at a company cafeteria; and (vi) food or beverages provided at company holiday parties and picnics. The Treasury Department and the IRS considered all comments received and provide examples in proposed §1.274-12(c) to address many of the factual scenarios raised by commenters.

D. Definitions

The proposed regulations provide that the deduction limitation rules generally apply to all food and beverages, whether characterized as meals, snacks, or other types of food or beverage items. In addition, unless one of the six exceptions under section 274(n)(2)(A) applies, the deduction limitations apply regardless of whether the food or beverages are treated as *de minimis* fringe benefits under section 132(e).

The proposed regulations define food or beverage expenses to mean the cost of food or beverages, including any delivery fees, tips, and sales tax. In the case of employer-provided meals at an eating facility, food or beverage expenses do not include expenses for the operation of the eating facility such as salaries of employees preparing and serving meals, and other overhead costs.

E. Section 274(e) Exceptions to Section 274(k) and (n)

Section 274(k)(2) and (n)(2)(A) provide that the limitations on deductions in section 274(k)(1) and (n)(1), respectively, do not apply to any expense described in section 274(e)(2), (3), (4), (7), (8), and (9). The proposed regulations, therefore, provide that the deduction limitations are not applicable to expenditures for business meals, travel meals, or other food or beverages that fall within one of these exceptions.

i. Expenses Treated as Compensation under Section 274(e)(2) or (e)(9)

Pursuant to section 274(e)(2), the proposed regulations provide that the limitations in section 274(k)(1) and (n)(1) do not apply to expenditures for food or

beverages of an employee of the taxpayer (including food or beverages of a spouse, dependent or other individual accompanying the employee on travel described in section 274(m)(3)), to the extent the taxpayer treats the expenses as compensation to the employee on the taxpayer's income tax return as originally filed, and as wages to the employee for purposes of withholding under chapter 24 of the Code relating to collection of income tax at source on wages.

Pursuant to section 274(e)(9), the proposed regulations provide that the limitations in section 274(k)(1) and (n)(1) do not apply to expenses for food or beverages of a person who is not an employee of the taxpayer to the extent the expenses are includible in the gross income of the recipient of the food or beverages as compensation for services rendered, or as a prize or award under section 74.

The Treasury Department and the IRS are aware that some taxpayers may attempt to claim a full deduction under section 274(e)(2) or (e)(9) by including a value that is less than the amount required to be included under §1.61-21, which provides the rules for valuation of fringe benefits, or by purportedly including a value of zero, as compensation and as wages to the employee, or as includible in gross income by a person who is not an employee of the taxpayer. The proposed regulations therefore provide that expenses for food or beverages with a value that is less than the amount required to be included in gross income under §1.61-21, or for which the amount required to be included in gross income is zero, will not be considered as having been treated as compensation and as wages to the employee, or as includible in gross income by a recipient of the food or beverages who is not an employee of the taxpayer for purposes of section 274(e)(2) and (e)(9).

ii. Reimbursed Food or Beverage Expenses

Pursuant to section 274(e)(3), the proposed regulations provide that in the case of expenses for food or beverages paid or incurred by one person in connection with the performance of services for another person (whether or not the other person is an employer) under a reimbursement or other expense allowance arrangement,

the limitations on deductions in section 274(k)(1) and (n)(1) apply either to the person who makes the expenditure or to the person who actually bears the expense, but not to both. Section 274(e)(3)(B) provides that if the services are performed for a person other than an employer, such as by an independent contractor, the exception in section 274(e)(3) applies only if the taxpayer, in this case, the independent contractor, accounts, to the extent provided by section 274(d), to such person. The proposed regulations therefore provide that the deduction limitations in section 274(k)(1) and (n)(1) apply to an independent contractor unless, under a reimbursement or other expense allowance arrangement, the contractor accounts to the client or customer with substantiation that satisfies the requirements of section 274(d).

iii. Recreational Expenses for Employees

Pursuant to section 274(e)(4), the proposed regulations provide that any food or beverage expense paid or incurred by a taxpayer for a recreational, social, or similar activity, primarily for the benefit of the taxpayer's employees, is not subject to the deduction limitations in section 274(k)(1) and (n)(1). However, activities that discriminate in favor of highly compensated employees, officers, shareholders or others who own a 10-percent or greater interest in the business are not considered paid or incurred primarily for the benefit of employees.

The Treasury Department and the IRS have received several questions and comments on the deductibility of food or beverage expenses for recreational, social and similar activities for employees. Many commenters requested confirmation that food or beverage expenses for company holiday parties and picnics that do not discriminate in favor of highly compensated employees are not subject to the deduction limitations in section 274(k)(1) and (n)(1) because the exception in section 274(e)(4) applies. Commenters also suggested that expenses for snacks and beverages available to all employees in a pantry, break room, or copy room are not subject to the deduction limitations in section 274(k)(1) and (n)(1) because the exception in section 274(e)(4) applies.

In response to the questions and comments received, the proposed regulations

confirm the rules in the existing regulations that the exception in section 274(e)(4) applies to food or beverage expenses for company holiday parties, annual picnics, or summer outings that do not discriminate in favor of highly compensated employees. However, an example in the proposed regulations demonstrates the section 274(e)(4) exception does not apply to free food or beverages provided in a break room because the mere provision or availability of food or beverages is not a recreational, social, or similar activity, despite the fact that employees may incidentally socialize while they are in the break room.

In addition, the proposed regulations provide that the exception in section 274(e)(4) does not apply to food or beverage expenses that are excludable under section 119 as meals provided for the convenience of the employer. Because these food or beverages are, by definition, furnished for the employer's convenience, they cannot also be primarily for the benefit of the employees, even if some social activity occurs during the provision of food or beverages.

iv. Items Available to the Public

Pursuant to section 274(e)(7), the proposed regulations provide that any food or beverage expense of a taxpayer is not subject to the deduction limitations in section 274(k)(1) and (n)(1) to the extent the food or beverages are made available to the general public. In addition, the proposed regulations provide that this exception applies to the entire amount of the expense for food or beverages provided to employees if similar food or beverages are provided by the employer to, and are primarily consumed by, the general public. For this purpose, "primarily consumed" means greater than 50 percent of actual or reasonably estimated consumption, and "general public" includes, but is not limited to, customers, clients, and visitors. The proposed regulations also provide that the general public does not include employees, partners, or independent contractors of the taxpayer. Further, an exclusive list of guests also is not considered the general public. See *Churchill Downs, Inc. v. Commissioner*, 307 F.3d 423 (6th Cir. 2002).

Commenters have requested guidance as to whether the exception in section 274(e)(7) for food or beverages made available by the taxpayer to the general public applies in various situations. The Treasury Department and the IRS considered these comments and included examples in the proposed regulations to illustrate that the exception in section 274(e)(7) generally applies to the entire food or beverage expense if the food or beverages are primarily consumed by the general public.

v. Goods or Services Sold to Customers

Pursuant to section 274(e)(8), the proposed regulations provide that any expense for food or beverages that are sold to customers in a bona fide transaction for an adequate and full consideration in money or money's worth is not subject to the deduction limitations in section 274(k)(1) and (n)(1). The proposed regulations clarify that money or money's worth does not include payment through services provided.

The Treasury Department and the IRS are aware of concerns raised by commenters that it is a common business practice for employers of restaurant and food service workers to provide food or beverages at no cost or at a discount to their employees. The Joint Committee on Taxation's Bluebook on the TCJA explains that amendments made by the TCJA to limit the deduction for expenses of the employer associated with providing food or beverages to employees through an employer-operated eating facility that meets the requirements of section 132(e)(2) do not affect other exceptions to the 50-percent limitation on deductions for food or beverage expenses. For example, a restaurant or catering business may continue to deduct 100 percent of its costs for food or beverage items, purchased in connection with preparing and providing meals to its paying customers, which are also consumed at the worksite by employees who work in the employer's restaurant or catering business. Joint Committee on Taxation, *General Explanation of Public Law 115-97* (JCS-1-18), at 186 n.940 and at 188 n.956, December 2018. The proposed regulations incorporate this interpretation of the exception in section 274(e)(8).

Finally, the proposed regulations provide that for purposes of the section 274(e)(8) exception to the deduction limitations in section 274(k)(1) and (n)(1), the term "customer" includes anyone who is sold food or beverages in a bona fide transaction for an adequate and full consideration in money or money's worth. For example, employees of the taxpayer are customers when they purchase food or beverages from the taxpayer in a bona fide transaction for arm's length, fair market value prices.

Request for Comments

The Treasury Department and the IRS request comments on all aspects of these proposed regulations. Regarding entertainment expenditures under proposed §1.274-11, comments are specifically requested about the definition of entertainment, including how to distinguish entertainment from advertising and travel; the use of the objective test in defining entertainment activities; the application of the exceptions in section 274(e) to entertainment expenditures; and whether additional issues or examples should be addressed in the regulations. Regarding food or beverage expenses under proposed §1.274-12, comments are specifically requested about the changes from Notice 2018-76 to the rules for business meals; the application of the exceptions in section 274(e) to food or beverage expenses; and whether additional issues or examples should be addressed in the regulations.

Proposed Applicability Date

Section 7805(b)(1)(A) and (B) of the Code generally provide that no temporary, proposed, or final regulation relating to the internal revenue laws may apply to any taxable period ending before the earliest of (A) the date on which the regulation is filed with the **Federal Register**, or (B) in the case of a final regulation, the date on which a proposed or temporary regulation to which the final regulation relates was filed with the **Federal Register**.

Consistent with authority provided by section 7805(b)(1)(A), these regulations are proposed to apply for taxable years that begin on or after the date of publication of a Treasury decision adopting these

rules as final regulations in the **Federal Register**. Pending the issuance of the final regulations, a taxpayer may rely on these proposed regulations for entertainment expenditures and food or beverage expenses, as applicable, paid or incurred after December 31, 2017. In addition, a taxpayer may rely on the guidance in Notice 2018-76 until these proposed regulations are finalized.

Special Analyses

These proposed regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

In accordance with the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. Although the rule may affect a substantial number of small entities, the economic impact of the regulations is not likely to be significant. Data are not readily available about the number of taxpayers affected, but the number is likely to be substantial for both large and small entities because the rule may affect entities that incur meal and entertainment expenses. The economic impact of these regulations is not likely to be significant, however, because these proposed regulations substantially incorporate prior guidance and otherwise clarify the application of the TCJA changes to section 274 related to meals and entertainment. The proposed regulations will assist taxpayers in understanding the changes to section 274 and make it easier for taxpayers to comply with those changes. Notwithstanding this certification, the Treasury Department and the IRS welcome comments on the impact of these regulations on small entities.

Pursuant to section 7805(f), these proposed regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) re-

quires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of \$100 million (updated annually for inflation). This rule does not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

Executive Order 13132: Federalism

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive order.

Statement of Availability of IRS Documents

Notices cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS web site at <http://www.irs.gov>.

Comments

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments that are submitted timely to the IRS as prescribed in this preamble under the “ADDRESSES” heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at <http://www.regulations.gov> or upon request.

Drafting Information

The principal author of this proposed regulation is Patrick Clinton, Office of the Associate Chief Counsel (Income Tax & Accounting). Other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income Taxes, Reporting and record-keeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

Part 1—INCOME TAX

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order for §§ 1.274-11 and 1.274-12 to read in part as follows:

Authority: 26 U.S.C. 7805* * *

Section 1.274-11 also issued under 26 U.S.C. 274.

Section 1.274-12 also issued under 26 U.S.C. 274.

* * * * *

Par. 2. Section 1.274-11 is added to read as follows:

§1.274-11 Disallowance of deductions for certain entertainment, amusement, or recreation expenditures paid or incurred after December 31, 2017.

(a) *In general.* Except as provided in this section, no deduction otherwise allowable under chapter 1 of the Internal Revenue Code (Code) is allowed for any expenditure with respect to an activity that is of a type generally considered to be entertainment, or with respect to a facility used in connection with an entertainment activity. For purposes of this paragraph (a), dues or fees to any social, athletic, or sporting club or organization are treated as items with respect to facilities and, thus, are not deductible. In addition, no deduction otherwise allowable under chapter 1 of the Code is allowed for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose.

(b) *Definitions*—(1) *Entertainment*—

(i) *In general.* For section 274 purposes, the term *entertainment* means any activity which is of a type generally considered to constitute entertainment, amusement, or recreation, such as entertaining at bars, theaters, country clubs, golf and athletic clubs, sporting events, and on hunting, fishing, vacation and similar trips, including such activity relating solely to the taxpayer or the taxpayer's family. These activities are treated as entertainment under this section, subject to the objective test, regardless of whether the expenditure for the activity is related to or associated with the active conduct of the taxpayer's trade or business. The term *entertainment* may include an activity, the cost of which otherwise is a business expense of the taxpayer, which satisfies the personal, living, or family needs of any individual, such as a hotel suite or an automobile to a business customer or the customer's family. The term *entertainment* does not include activities which, although satisfying personal, living, or family needs of an individual, are clearly not regarded as constituting entertainment, such as a hotel room maintained by an employer for lodging of employees while in business travel status or an automobile used in the active conduct of trade or business even though used for routine personal purposes such as commuting to and from work. On the other hand, the providing of a hotel room or an automobile by an employer to an employee who is on vacation would constitute entertainment of the employee.

(ii) *Food or beverages.* Under this section, the term *entertainment* does not include food or beverages unless the food or beverages are provided during or at an entertainment activity. Food or beverages provided during or at an entertainment activity generally are treated as part of the entertainment activity. However, in the case of food or beverages provided during or at an entertainment activity, the food or beverages are not considered entertainment if the food or beverages are purchased separately from the entertainment, or the cost of the food or beverages is stated separately from the cost of the entertainment on one or more bills, invoices, or receipts. The amount charged for food or beverages on a bill, invoice, or receipt must reflect the venue's usual sell-

ing cost for those items if they were to be purchased separately from the entertainment, or must approximate the reasonable value of those items. Unless the food or beverages are purchased separately from the entertainment, or the cost of the food or beverages is stated separately from the cost of the entertainment on one or more bills, invoices, or receipts, no allocation can be made and the entire amount is a nondeductible entertainment expenditure.

(iii) *Objective test.* An objective test is used to determine whether an activity is of a type generally considered to be entertainment. Thus, if an activity is generally considered to be entertainment, it will be treated as entertainment for purposes of this section and section 274(a) regardless of whether the expenditure can also be described otherwise, and even though the expenditure relates to the taxpayer alone. This objective test precludes arguments that *entertainment* means only entertainment of others or that an expenditure for entertainment should be characterized as an expenditure for advertising or public relations. However, in applying this test the taxpayer's trade or business is considered. Thus, although attending a theatrical performance generally would be considered entertainment, it would not be so considered in the case of a professional theater critic, attending in a professional capacity. Similarly, if a manufacturer of dresses conducts a fashion show to introduce its products to a group of store buyers, the show generally would not be considered entertainment. However, if an appliance distributor sponsors a fashion show, the fashion show generally would be considered to be entertainment.

(2) *Expenditure.* The term *expenditure* as used in this section includes amounts paid or incurred for goods, services, facilities, and other items, including items such as losses and depreciation.

(3) *Expenditures for production of income.* For purposes of this section, any reference to *trade or business* includes an activity described in section 212.

(c) *Exceptions.* Paragraph (a) of this section does not apply to any expenditure described in section 274(e)(1), (2), (3), (4), (5), (6), (7), (8), or (9).

(d) *Examples.* The following examples illustrate the application of paragraphs (a) and (b) of this section. In each example,

neither the taxpayer nor the business associate is engaged in a trade or business that relates to the entertainment activity.

(1) *Example 1.* Taxpayer A invites, B, a business associate, to a baseball game to discuss a proposed business deal. A purchases tickets for A and B to attend the game. The baseball game is entertainment as defined in paragraph (b)(1) of this section and thus, the cost of the game tickets is an entertainment expenditure and is not deductible by A.

(2) *Example 2.* Assume the same facts as in paragraph (d)(1) of this section (*Example 1*), except that A also buys hot dogs and drinks for A and B from a concession stand. The cost of the hot dogs and drinks, which are purchased separately from the game tickets, is not an entertainment expenditure and is not subject to the section 274(a)(1) disallowance. Therefore, A may deduct 50 percent of the expenses associated with the hot dogs and drinks purchased at the game if they meet the requirements of section 162 and §1.274-12.

(3) *Example 3.* Taxpayer C invites D, a business associate, to a basketball game. C purchases tickets for C and D to attend the game in a suite, where they have access to food and beverages. The cost of the basketball game tickets, as stated on the invoice, includes the food or beverages. The basketball game is entertainment as defined in paragraph (b)(1) of this section and, thus, the cost of the game tickets is an entertainment expenditure and is not deductible by C. The cost of the food and beverages, which are not purchased separately from the game tickets, is not stated separately on the invoice. Thus, the cost of the food and beverages is an entertainment expenditure that is subject to the section 274(a)(1) disallowance. Therefore, C may not deduct the cost of the tickets or the food and beverages associated with the basketball game.

(4) *Example 4.* Assume the same facts as in paragraph (d)(3) of this section (*Example 3*), except that the invoice for the basketball game tickets separately states the cost of the food and beverages and reflects the venue's usual selling price if purchased separately. As in paragraph (d)(3) (*Example 3*), the basketball game is entertainment as defined in paragraph (b)(1) of this section and, thus, the cost of the game tickets, other than the cost of the food and beverages, is an entertainment expenditure and is not deductible by C. However, the cost of the food and beverages, which is stated separately on the invoice for the game tickets, is not an entertainment expenditure and is not subject to the section 274(a)(1) disallowance. Therefore, C may deduct 50 percent of the expenses associated with the food and beverages provided at the game if they meet the requirements of section 162 and §1.274-12.

(e) *Applicability date.* This section applies for taxable years that begin on or after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE FEDERAL REGISTER].

Par. 3. Section 1.274-12 is added to read as follows:

§1.274-12 *Limitation on deductions for certain food or beverage expenses paid or incurred after December 31, 2017.*

(a) *Food or beverage expenses*—(1) *In general.* Except as provided in this section, no deduction is allowed for the expense of any food or beverages provided by the taxpayer (or an employee of the taxpayer) to another person or persons unless—

(i) The expense is not lavish or extravagant under the circumstances;

(ii) The taxpayer, or an employee of the taxpayer, is present at the furnishing of such food or beverages; and

(iii) The food or beverages are provided to a business associate.

(2) *Only 50 percent of food or beverage expenses allowed as deduction.* Except as provided in this section, the amount allowable as a deduction for any expense for food or beverages provided by the taxpayer, or an employee of the taxpayer, to a business associate may not exceed 50 percent of the amount of the expense that otherwise would be allowable.

(3) *Examples.* The following examples illustrate the application of paragraph (a) (1) and (2) of this section. In each example, the food or beverage expenses are ordinary and necessary expenses under section 162(a) that are paid or incurred during the taxable year in carrying on a trade or business and are not lavish or extravagant under the circumstances.

(i) *Example 1.* Taxpayer A takes client B out to lunch. While eating lunch, A and B discuss A's trade or business activities. Under section 274(k) and (n) and paragraph (a) of this section, A may deduct 50 percent of the food or beverage expenses.

(ii) *Example 2.* Taxpayer C takes employee D out to lunch. While eating lunch, C and D discuss D's annual performance review. Under section 274(k) and (n) and paragraph (a) of this section, C may deduct 50 percent of the food and beverage expenses.

(4) *Special rules for travel meals*—(i) *In general.* Food or beverage expenses paid or incurred while traveling away from home in pursuit of a trade or business generally are subject to the deduction limitations in section 274(k) and (n) and paragraph (a)(1) and (2) of this section, as well as the substantiation requirements in section 274(d). In addition, travel expenses generally are subject to the limitations in section 274(m)(1), (2) and (3).

(ii) *Substantiation.* Except as provided in this section, no deduction is allowed for the expense of any food or beverages paid or incurred while traveling away from home in pursuit of a trade or business un-

less the taxpayer meets the substantiation requirements in section 274(d).

(iii) *Travel meal expenses of spouse, dependent, or others.* No deduction is allowed under chapter 1 of the Internal Revenue Code (Code), except under section 217 for certain members of the Armed Forces of the United States, for the expense of any food or beverages paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer, or an officer or employee of the taxpayer, on business travel, unless—

(A) The spouse, dependent, or other individual is an employee of the taxpayer;

(B) The travel of the spouse, dependent, or other individual is for a bona fide business purpose of the taxpayer; and

(C) The expenses would otherwise be deductible by the spouse, dependent or other individual.

(D) The following example illustrates the application of paragraph (a)(4)(iii) of this section. Taxpayer E and Taxpayer E's spouse travel from New York to Boston to attend a series of business meetings. E's spouse is not an employee of E, does not travel to Boston for a bona fide business purpose of E, and the expenses would not otherwise be deductible. While in Boston, E and E's spouse go out to dinner. Under section 274(m)(3) and paragraph (a)(4) (iii) of this section, the expenses associated with the food and beverages consumed by E's spouse are not deductible. Therefore, the cost of E's spouse's dinner is not deductible. E may deduct 50 percent of the expense associated with the food and beverages E consumed while on business travel if E meets the requirements in sections 162 and 274, including section 274(k) and (d).

(b) *Definitions.* Except as otherwise provided in this section, the following definitions apply for purposes of section 274(k) and (n), §1.274-11(b)(1)(ii) and (d), and this section:

(1) *Food or beverages.* *Food or beverages* means all food and beverage items, regardless of whether characterized as meals, snacks, or other types of food and beverages, and regardless of whether the food and beverages are treated as *de minimis* fringes under section 132(e).

(2) *Food or beverage expenses.* *Food or beverage expenses* mean the full cost of food or beverages, including any deliv-

ery fees, tips, and sales tax. In the case of employer-provided meals furnished at an eating facility on the employer's business premises, *food or beverage expenses* do not include expenses for the operation of the eating facility such as salaries of employees preparing and serving meals, and other overhead costs.

(3) *Business associate.* *Business associate* means a person with whom the taxpayer could reasonably expect to engage or deal in the active conduct of the taxpayer's trade or business such as the taxpayer's customer, client, supplier, employee, agent, partner, or professional adviser, whether established or prospective.

(4) *Independent contractor.* For purposes of the reimbursement or other expense allowance arrangements described in paragraph (c)(2)(ii) of this section, *independent contractor* means a person who is not an employee of the payor.

(5) *Client or customer.* For purposes of the reimbursement or other expense allowance arrangements described in paragraph (c)(2)(ii) of this section, *client or customer* means a person who receives services from an independent contractor and enters into a reimbursement or other expense allowance arrangement with the independent contractor.

(6) *Payor.* For purposes of the reimbursement or other expense allowance arrangements described in paragraph (c)(2) (ii) of this section, *payor* means a person that enters into a reimbursement or other expense allowance arrangement with an employee and may include an employer, its agent, or a third party.

(7) *Reimbursement or other expense allowance arrangement.* For purposes of the reimbursement or other expense allowance arrangements described in paragraph (c)(2)(ii) of this section, *reimbursement or other expense allowance arrangement* means—

(i) For purposes of paragraph (c)(2)(ii) (B) of this section, an arrangement under which an employee receives an advance, allowance, or reimbursement from a payor (the employer, its agent, or a third party) for expenses the employee pays or incurs; and

(ii) For purposes of paragraph (c)(2)(ii) (C) of this section, an arrangement under which an independent contractor receives an advance, allowance, or reimbursement

from a client or customer for expenses the independent contractor pays or incurs if either—

(A) A written agreement between the parties expressly states that the client or customer will reimburse the independent contractor for expenses that are subject to the limitations on deductions in paragraph (a) of this section; or

(B) A written agreement between the parties expressly identifies the party subject to the limitations.

(8) *Primarily consumed.* For purposes of paragraph (c)(2)(iv) of this section, *primarily consumed* means greater than 50 percent of actual or reasonably estimated consumption.

(9) *General public.* For purposes of paragraph (c)(2)(iv) of this section, the *general public* includes, but is not limited to, customers, clients, and visitors. The *general public* does not include employees, partners or independent contractors of the taxpayer. Also, an exclusive list of guests is not the *general public*.

(c) *Exceptions*—(1) *In general.* The limitations on the deduction of food or beverage expenses in paragraph (a) of this section do not apply to any expense described in paragraph (c)(2) of this section. These expenses are deductible to the extent allowable under chapter 1 of the Code.

(2) *Exceptions*—(i) *Expenses treated as compensation*—(A) *In general.* Any expense paid or incurred by a taxpayer for food or beverages, including food or beverages provided during travel described in section 274(m)(3), if an employee is the recipient of the food or beverages, is not subject to the deduction limitations in paragraph (a) of this section to the extent that the expense is treated by the taxpayer—

(1) On the taxpayer's income tax return as originally filed, as compensation paid to the employee; and

(2) As wages to the employee for purposes of withholding under chapter 24 of the Code, relating to collection of income tax at source on wages.

(B) *Expenses includible in income of persons who are not employees.* An expense paid or incurred by a taxpayer for food or beverages, including food or beverages provided during travel described in section 274(m)(3), is not subject to the

deduction limitations in paragraph (a) of this section to the extent the expenditure is includible in gross income as compensation for services rendered, or as a prize or award under section 74 by a recipient of the expense who is not an employee of the taxpayer. The preceding sentence does not apply to any amount paid or incurred by the taxpayer if the amount is required to be included, or would be so required except that the amount is less than \$600, in any information return filed by such taxpayer under part III of subchapter A of chapter 61 of the Code and is not so included.

(C) *Expenses for which value is improperly included or for which amount required to be included is zero.* The exception in section 274(e)(2) and (e)(9) and paragraph (c)(2)(i) of this section does not apply to expenses paid or incurred for food or beverages for which the value that is included in gross income is less than the amount required to be included in gross income under §1.61-21. Furthermore, if the amount required to be included in gross income under §1.61-21 is zero, the exception in section 274(e)(2) and (e)(9) and paragraph (c)(2)(i) of this section does not apply.

(D) *Examples.* The following examples illustrate the application of paragraph (c)(2)(i) of this section. In each example, the food or beverage expenses are ordinary and necessary expenses under section 162(a) that are paid or incurred during the taxable year in carrying on a trade or business and that are not lavish or extravagant under the circumstances.

(1) *Example 1.* Employer F provides food and beverages to its employees without charge at a company cafeteria on its premises. The food and beverages do not meet the definition of a *de minimis* fringe under section 132(e). F treats the food and beverage expenses as compensation and wages, and determines the amount of the inclusion under §1.61-21. Under section 274(e)(2) and paragraph (c)(2)(i) of this section, the expenses associated with the food and beverages provided to the employees are not subject to the 50 percent deduction limitations in paragraph (a) of this section. Thus, F may deduct 100 percent of the food and beverage expenses.

(2) *Example 2.* Employer G provides meals to its employees without charge. The meals are properly excluded from the employees' income under section 119 as meals provided for the convenience of the employer. Under §1.61-21(b)(1), an employee must include in gross income the amount by which the fair market value of a fringe benefit exceeds the sum of the amount, if any, paid for the benefit by or on behalf of the recipient, and the amount, if any, spe-

cifically excluded from gross income by some other section of subtitle A of the Code. Because the entire value of the employees' meals is excluded from the employees' income under section 119, the fair market value of the fringe benefit does not exceed the amount excluded from gross income under subtitle A of the Code, so there is nothing to be included in the employees' income under §1.61-21. Thus, the exception in section 274(e)(2) and paragraph (c)(2)(i) of this section does not apply and G may only deduct 50 percent of the expenses for the food and beverages provided to employees.

(ii) *Reimbursed food or beverage expenses*—(A) *In general.* In the case of expenses for food or beverages paid or incurred by one person in connection with the performance of services for another person, whether or not the other person is an employer, under a reimbursement or other expense allowance arrangement, the deduction limitations in paragraph (a) of this section apply either to the person who makes the expenditure or to the person who actually bears the expense, but not to both. If an expense of a type described in paragraph (c)(2)(ii) of this section properly constitutes a dividend paid to a shareholder, unreasonable compensation paid to an employee, a personal expense, or other nondeductible expense, nothing in this paragraph (c)(2)(ii)(A) prevents disallowance of the deduction to the taxpayer under other provisions of the Code.

(B) *Reimbursement arrangements involving employees.* In the case of expenses paid or incurred by an employee for food or beverages in performing services as an employee under a reimbursement or other expense allowance arrangement with a payor (the employer, its agent, or a third party) the limitations on deductions in paragraph (a) of this section apply—

(1) To the employee to the extent the employer treats the reimbursement or other payment of the expense on the employer's income tax return as originally filed as compensation paid to the employee and as wages to the employee for purposes of withholding under chapter 24 relating to collection of income tax at source on wages; or

(2) To the payor to the extent the reimbursement or other payment of the expense is not treated as compensation and wages paid to the employee in the manner provided in paragraph (c)(2)(ii)(B)(1) of this section. However, see paragraph (c)(2)(ii)(C) of this section if the payor receives a payment from a third party that

may be treated as a reimbursement arrangement under paragraph (c)(2)(ii)(C).

(C) *Reimbursement arrangements involving persons that are not employees.* In the case of expenses for food or beverages paid or incurred by an independent contractor in connection with the performance of services for a client or customer under a reimbursement or other expense allowance arrangement with the independent contractor, the limitations on deductions in paragraph (a) of this section apply to the party expressly identified in an agreement between the parties as subject to the limitations. If an agreement between the parties does not expressly identify the party subject to the limitations, then the deduction limitations in paragraph (a) of this section apply—

(1) To the independent contractor (which may be a payor) to the extent the independent contractor does not account to the client or customer within the meaning of section 274(d); or

(2) To the client or customer if the independent contractor accounts to the client or customer within the meaning of section 274(d).

(D) *Section 274(d) substantiation.* If the reimbursement or other expense allowance arrangement involves persons who are not employees and the agreement between the parties does not expressly identify the party subject to the limitations on deductions in paragraph (a) of this section, the limitations on deductions in paragraph (a) of this section apply to the independent contractor unless the independent contractor accounts to the client or customer with substantiation that satisfies the requirements of section 274(d).

(E) *Examples.* The following examples illustrate the application of paragraph (c)(2)(ii) of this section.

(1) *Example 1.* (i) Employee I performs services under an arrangement in which J, an employee leasing company, pays I a per diem allowance of \$10x for each day that I performs services for J's client, K, while traveling away from home. The per diem allowance is a reimbursement of travel expenses for food or beverages that I pays in performing services as an employee. J enters into a written agreement with K under which K agrees to reimburse J for any substantiated reimbursements for travel expenses, including meal expenses, that J pays to I. The agreement does not expressly identify the party that is subject to the limitations on deductions in paragraph (a) of this section. I performs services for K while traveling away from home for 10 days and provides J with substantiation that satisfies the requirements of

section 274(d) of \$100x of meal expenses incurred by I while traveling away from home. J pays I \$100x to reimburse those expenses pursuant to their arrangement. J delivers a copy of I's substantiation to K. K pays J \$300x, which includes \$200x compensation for services and \$100x as reimbursement of J's payment of I's travel expenses for meals. Neither J nor K treats the \$100x paid to I as compensation or wages.

(ii) Under paragraph (b)(7)(i) of this section, I and J have established a reimbursement or other expense allowance arrangement for purposes of paragraph (c)(2)(ii)(B) of this section. Because the reimbursement payment is not treated as compensation and wages paid to I, under section 274(e)(3)(A) and paragraph (c)(2)(ii)(B)(1) of this section, I is not subject to the limitations on deductions in paragraph (a) of this section. Instead, under paragraph (c)(2)(ii)(B)(2) of this section, J, the payor, is subject to limitations on deductions in paragraph (a) of this section unless J can meet the requirements of section 274(e)(3)(B) and paragraph (c)(2)(ii)(C) of this section.

(iii) Because the agreement between J and K expressly states that K will reimburse J for substantiated reimbursements for travel expenses that J pays to I, under paragraph (b)(7)(ii)(A) of this section, J and K have established a reimbursement or other expense allowance arrangement for purposes of paragraph (c)(2)(ii)(C) of this section. J accounts to K for K's reimbursement in the manner required by section 274(d) by delivering to K a copy of the substantiation J received from I. Therefore, under section 274(e)(3)(B) and paragraph (c)(2)(ii)(C)(2) of this section, K and not J is subject to the deduction limitations in paragraph (a) of this section.

(2) *Example 2.* (i) The facts are the same as in paragraph (c)(2)(ii)(E)(1) of this section (*Example 1*) except that, under the arrangements between I and J and between J and K, I provides the substantiation of the expenses directly to K, and K pays the per diem directly to I.

(ii) Under paragraph (b)(7)(i) of this section, I and K have established a reimbursement or other expense allowance arrangement for purposes of paragraph (c)(2)(ii)(C) of this section. Because I substantiates directly to K and the reimbursement payment was not treated as compensation and wages paid to I, under section 274(e)(3)(A) and paragraph (c)(2)(ii)(C)(1) of this section I is not subject to the limitations on deductions in paragraph (a) of this section. Under paragraph (c)(2)(ii)(C)(2) of this section, K, the payor, is subject to the limitations on deductions in paragraph (a) of this section.

(3) *Example 3.* (i) The facts are the same as in paragraph (c)(2)(ii)(E)(1) of this section (*Example 1*), except that the written agreement between J and K expressly provides that the limitations of this section will apply to K.

(ii) Under paragraph (b)(7)(ii)(B) of this section, J and K have established a reimbursement or other expense allowance arrangement for purposes of paragraph (c)(2)(ii)(C) of this section. Because the agreement provides that the 274 deduction limitations apply to K, under section 274(e)(3)(B) and paragraph (c)(2)(ii)(C) of this section, K and not J is subject to the limitations on deductions in paragraph (a) of this section.

(4) *Example 4.* (i) The facts are the same as in paragraph (c)(2)(ii)(E)(1) of this section (*Example 1*), except that the agreement between J and K does not provide that K will reimburse J for travel expenses.

(ii) The arrangement between J and K is not a reimbursement or other expense allowance arrangement within the meaning of section 274(e)(3)(B) and paragraph (b)(7)(ii) of this section. Therefore, even though J accounts to K for the expenses, J is subject to the limitations on deductions in paragraph (a) of this section.

(iii) *Recreational expenses for employees—(A) In general.* Any food or beverage expense paid or incurred by a taxpayer for a recreational, social, or similar activity, primarily for the benefit of taxpayer's employees (other than employees who are highly compensated employees (within the meaning of paragraph (c)(2)(iii)(B) of this section)) is not subject to the deduction limitations in paragraph (a) of this section. This paragraph (c)(2)(iii)(A) applies to expenses paid or incurred for events such as holiday parties, annual picnics, or summer outings. This paragraph (c)(2)(iii)(A) does not apply to expenses for meals the value of which is excluded from employees' income under section 119 because the meals are provided for the convenience of the employer.

(B) *Highly compensated employees.* The exception in this paragraph (c)(2)(iii) applies only to expenses for food or beverages made primarily for the benefit of employees of the taxpayer other than employees who are officers, shareholders or other owners who own a 10-percent or greater interest in the business, or other highly compensated employees. For purposes of the preceding sentence, an employee is treated as owning any interest owned by a member of the employee's family, within the meaning of section 267(c)(4). Any expense for food or beverages that is made under circumstances which discriminate in favor of employees who are officers, shareholders or other owners, or highly compensated employees is not considered to be made primarily for the benefit of employees generally. An expense for food or beverages is not to be considered outside of the exception of this paragraph (c)(2)(iii) merely because, due to the large number of employees involved, the provision of food or beverages is intended to benefit only a limited number of employees at one time, provided the provision of food or beverages does not discriminate in favor

of officers, shareholders, other owners, or highly compensated employees.

(C) *Examples.* The following examples illustrate the application of this paragraph (c)(2)(iii). In each example, the food or beverage expenses are ordinary and necessary expenses under section 162(a) that are paid or incurred during the taxable year in carrying on a trade or business and that are not lavish or extravagant under the circumstances.

(1) *Example 1.* Employer L invites all employees to a holiday party in a hotel ballroom that includes a buffet dinner and an open bar. Under section 274(e)(4), this paragraph (c)(2)(iii), and §1.274-11(c), the cost of the party, including food and beverage expenses, is not subject to the deduction limitations in paragraph (a) of this section because the holiday party is a recreational, social, or similar activity primarily for the benefit of non-highly compensated employees. Thus, L may deduct 100 percent of the cost of the party.

(2) *Example 2.* The facts are the same as in paragraph (c)(2)(iii)(C)(1) of this section (*Example 1*), except that Employer L invites only highly-compensated employees to the holiday party, and the invoice provided by the hotel lists the costs for food and beverages separately from the cost of the rental of the ballroom. The costs reflect the venue's usual selling price for food or beverages. The exception in this paragraph (c)(2)(iii) does not apply because L invited only highly-compensated employees to the holiday party. However, under §1.274-11(b)(1)(ii), the food and beverage expenses are not treated as entertainment. L may deduct 50 percent of the food and beverage costs that are separately stated on the invoice under paragraph (a)(2) of this section.

(3) *Example 3.* Employer M provides free coffee, soda, bottled water, chips, donuts, and other snacks in a break room available to all employees. The expenses associated with the food and beverages are subject to the deduction limitations in paragraph (a) of this section because the break room is not a recreational, social, or similar activity primarily for the benefit of the employees. Thus, the exception in section 274(e)(4) and this paragraph (c)(2)(iii) does not apply and M may only deduct 50 percent of the expenses for food and beverages provided in the break room.

(4) *Example 4.* Employer N has a written policy that employees in a certain medical services-related position must be available for emergency calls due to the nature of the position that requires frequent emergency response. Because these emergencies can and do occur during meal periods, N furnishes food and beverages to employees in this position without charge in a cafeteria on N's premises. N excludes food and beverage expenses from the employees' income as meals provided for the convenience of the employer excludable under section 119. Because these food and beverages are furnished for the employer's convenience, and therefore are not primarily for the benefit of the employees, the exception in section 274(e)(4) and this paragraph (c)(2)(iii) does not apply, even if some socializing related to the food and beverages provided occurs. Thus, N may only

deduct 50 percent of the expenses for food and beverages provided to employees in the cafeteria.

(5) *Example 5.* Employer O invites an employee and a client to dinner at a restaurant. Because it is the birthday of the employee, O orders a special dessert in celebration. Because the meal is a business meal, and therefore not primarily for the benefit of the employee, the exception in section 274(e)(4) and this paragraph (c)(2)(iii) does not apply, even though an employee social activity in the form of a birthday celebration occurred during the meal. Thus, O may only deduct 50 percent of the meal expenses.

(iv) *Items available to the public—(A) In general.* Any expense paid or incurred by a taxpayer for food or beverages to the extent the food or beverages are made available to the general public is not subject to the deduction limitations in paragraph (a) of this section. If a taxpayer provides food or beverages to employees, this paragraph (c)(2)(iv)(A) applies to the entire amount of expenses for those food or beverages if the same types of food or beverages are provided to, and are primarily consumed by, the general public.

(B) *Examples.* The following examples illustrate the application of this paragraph (c)(2)(iv). In each example, the food and beverage expenses are ordinary and necessary expenses under section 162(a) that are paid or incurred during the taxable year in carrying on a trade or business and that are not lavish or extravagant under the circumstances.

(1) *Example 1.* Employer P is a real estate agent and provides refreshments at an open house for a home available for sale to the public. The refreshments are consumed by P's employees, potential buyers of the property, and other real estate agents. Under section 274(e)(7) and this paragraph (c)(2)(iv), the expenses associated with the refreshments are not subject to the deduction limitations in paragraph (a) of this section if over 50 percent of the food and beverages are primarily consumed by potential buyers and other real estate agents. If the food and beverages are not primarily consumed by the general public, only the costs attributable to the food and beverages provided to the general public are excepted under section 274(e)(7) and this paragraph (c)(2)(iv).

(2) *Example 2.* Employer Q is an automobile service center and provides refreshments in its waiting area. The refreshments are consumed by Q's employees and customers. Under section 274(e)(7) and this paragraph (c)(2)(iv), the expenses associated with the refreshments are not subject to the deduction limitations provided for in paragraph (a) of this section if over 50 percent of the food and beverages are primarily consumed by customers. If the food and beverages are not primarily consumed by the general public, only the costs attributable to the food and beverages provided to the general public are excepted under section 274(e)(7) and this paragraph (c)(2)(iv).

(3) *Example 3.* Employer R operates a summer camp open to the general public for children and provides breakfast and lunch, as part of the fee to attend camp, both to camp counselors, who are employees, and to camp attendees, who are customers. There are 20 camp counselors and 100 camp attendees. The same type of meal is available to each counselor and attendee, and attendees consume more than 50 percent of the food and beverages. Under section 274(e)(7) and this paragraph (c)(2)(iv), the expenses associated with the food and beverages are not subject to the deduction limitations in paragraph (a) of this section, because over 50 percent of the food and beverages are primarily consumed by camp attendees. Thus, R may deduct 100 percent of the food and beverage expenses.

(4) *Example 4.* Employer S provides food and beverages to its employees without charge at a company cafeteria on its premises. Occasionally, customers or other visitors also eat without charge in the cafeteria. The occasional consumption of food and beverages at the company cafeteria by customers and visitors is less than 50 percent of the total amount of food and beverages consumed at the cafeteria. Therefore, only the costs attributable to the food and beverages provided to the general public are excepted under section 274(e)(7) and this paragraph (c)(2)(iv).

(v) *Goods or services sold to customers—(A) In general.* An expense paid or incurred for food or beverages, to the extent the food or beverages are sold to customers in a bona fide transaction for an adequate and full consideration in money or money's worth, is not subject to the deduction limitations in paragraph (a) of this section. However, *money or money's worth* does not include payment through services provided. Under this paragraph (c)(2)(v), a restaurant or catering business may deduct 100 percent of its costs for food or beverage items, purchased in connection with preparing and providing meals to its paying customers, which are also consumed at the worksite by employees who work in the employer's restaurant or catering business. In addition, for purposes of this paragraph (c)(2)(v), the term *customer* includes anyone, including an employee of the taxpayer, who is sold food or beverages in a bona fide transaction for an adequate and full consideration in money or money's worth.

(B) *Example.* The following example illustrates the application of this paragraph (c)(2)(v). Employer T operates a restaurant. T provides food and beverages to its food service employees before, during, and after their shifts for no consideration. Under section 274(e)(8) and this paragraph (c)(2)(v), the expenses associated with the food and beverages

provided to the employees are not subject to the 50 percent deduction limitation in paragraph (a) of this section because the restaurant sells food and beverages to customers in a bona fide transaction for an adequate and full consideration in money or money's worth. Thus, T may

deduct 100 percent of the food and beverage expenses.

(d) *Applicability date.* This section applies for taxable years that begin on or after **[DATE OF PUBLICATION OF FINAL REGULATIONS IN THE FEDERAL REGISTER]**.

Sunita Lough,
*Deputy Commissioner for Services
and Enforcement.*

(Filed by the Office of the Federal Register on February 21, 2020, 4:15 p.m., and published in the issue of the Federal Register for February 26, 2020, 85 F.R. 11020)

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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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.

Internal Revenue Service

Washington, DC 20224

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INTERNAL REVENUE BULLETIN

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletins are available at www.irs.gov/irb/.

We Welcome Comments About the Internal Revenue Bulletin

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