

Reg. Section 1.162-25T(a)

Deductions with respect to noncash fringe benefits (temporary).



(a) Employer. If an employer includes the value of a noncash fringe benefit in an employee's gross income, the employer may not deduct this amount as compensation for services, but rather may deduct only the costs incurred by the employer in providing the benefit to the employee. The employer may be allowed a cost recovery deduction under section 168 or a deduction under section 179 for an expense not chargeable to capital account, or, if the noncash fringe benefit is property leased by the employer, a deduction for the ordinary and necessary business expense of leasing the property.

(b) [Reserved]

(c) Examples. The following examples illustrate the provisions of this section.

Example (1). On January 1, 1986, X Company owns and provides the use of an automobile with a fair market value of \$ 20,000 to E, an employee, for the entire calendar year. Both X and E compute taxable income on the basis of the calendar year. Seventy percent of the use of the automobile by E is in connection with X's trade or business. If X uses the special rule provided in § 1.61-2T for valuing the availability of the automobile and takes into account the amount excludable as a working condition fringe, X would include \$ 1,680 (\$ 5,600, the Annual Lease Value, less 70 percent of \$ 5,600) in E's gross income for 1986. X may not deduct the amount included in E's income as compensation for services. X may, however, determine a cost recovery deduction under section 168, subject to the limitations under section 280F, for taxable year 1986.

Example (2). The facts are the same as in example (1), except that X includes \$ 5,600 in E's gross income, the value of the noncash fringe benefit without taking into account the amount excludable as a working condition fringe. X may not deduct that amount as compensation for services, but may determine a cost recovery deduction under section 168, subject to the limitations under section 280F. For purposes of determining adjusted gross income, E may deduct \$ 3,920 (\$ 5,600 multiplied by the percent of business use).