

Internal Revenue Code Section 274(h)

Disallowance of certain entertainment, etc., expenses

(h) Attendance at conventions, etc.

(1) In general. In the case of any individual who attends a convention, seminar, or similar meeting which is held outside the North American area, no deduction shall be allowed under section 162 for expenses allocable to such meeting unless the taxpayer establishes that the meeting is directly related to the active conduct of his trade or business and that, after taking into account in the manner provided by regulations prescribed by the Secretary—

(A) the purpose of such meeting and the activities taking place at such meeting,

(B) the purposes and activities of the sponsoring organizations or groups,

(C) the residences of the active members of the sponsoring organization and the places at which other meetings of the sponsoring organization or groups have been held or will be held, and

(D) such other relevant factors as the taxpayer may present, it is as reasonable for the meeting to be held outside the North American area as within the North American area.

(2) Conventions on cruise ships. In the case of any individual who attends a convention, seminar, or other meeting which is held on any cruise ship, no deduction shall be allowed under section 162 for expenses allocable to such meeting, unless the taxpayer meets the requirements of paragraph (5) and establishes that the meeting is directly related to the active conduct of his trade or business and that—

(A) the cruise ship is a vessel registered in the United States; and

(B) all ports of call of such cruise ship are located in the United States or in possessions of the United States. With respect to cruises beginning in any calendar year, not more than \$2,000 of the expenses attributable to an individual attending one or more meetings may be taken into account under section 162 by reason of the preceding sentence.

(3) Definitions. For purposes of this subsection—

(A) North American area. The term "North American area" means the United States, its possessions, and the Trust Territory of the Pacific Islands, and Canada and Mexico.

(B) Cruise ship. The term "cruise ship" means any vessel sailing within or without the territorial waters of the United States.

(4) Subsection to apply to employer as well as to traveler.

(A) Except as provided in subparagraph (B), this subsection shall apply to deductions otherwise allowable under section 162 to any person, whether or not such person is the individual attending the convention, seminar, or similar meeting.

(B) This subsection shall not deny a deduction to any person other than the individual attending the convention, seminar, or similar meeting with respect to any amount paid by such person to or on behalf of such individual if includible in the gross income of such individual. The preceding sentence shall not apply if the amount is required to be included in any information return filed by such person under part III of subchapter A of chapter 61 and is not so included.

(5) Reporting requirements. No deduction shall be allowed under section 162 for expenses allocable to attendance at a convention, seminar, or similar meeting on any cruise ship unless the taxpayer claiming the deduction attaches to the return of tax on which the deduction is claimed—

(A) a written statement signed by the individual attending the meeting which includes—

(i) information with respect to the total days of the trip, excluding the days of transportation to and from the cruise ship port, and the number of hours of each day of the trip which such individual devoted to scheduled business activities,

(ii) a program of the scheduled business activities of the meeting, and

(iii) such other information as may be required in regulations prescribed by the Secretary; and

(B) a written statement signed by an officer of the organization or group sponsoring the meeting which includes—

(i) a schedule of business activities of each day of the meeting,

(ii) the number of hours which the individual attending the meeting attended such scheduled business activities, and

(iii) such other information as may be required in regulations prescribed by the Secretary.

(6) Treatment of conventions in certain Caribbean countries.

(A) In general. For purposes of this subsection, the term "North American area" includes, with respect to any convention, seminar, or similar meeting, any beneficiary country if (as of the time such meeting begins)—

(i) there is in effect a bilateral or multilateral agreement described in subparagraph (C) between such country and the United States providing for the exchange of information between the United States and such country, and

(ii) there is not in effect a finding by the Secretary that the tax laws of such country discriminate against conventions held in the United States.

(B) Beneficiary country. For purposes of this paragraph, the term "beneficiary country" has the meaning given to such term by section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act; except that such term shall include Bermuda.

(C) Authority to conclude exchange of information agreements.

(i) In general. The Secretary is authorized to negotiate and conclude an agreement for the exchange of information with any beneficiary country. Except as provided in clause (ii), an exchange of information agreement shall provide for the exchange of such information (not limited to information concerning nationals or residents of the United States or the beneficiary country) as may be necessary or appropriate to carry out and enforce the tax laws of the United States and the beneficiary country (whether criminal or civil proceedings), including information which may otherwise be subject to nondisclosure provisions of the local law of the beneficiary country such as provisions respecting bank secrecy and bearer shares. The exchange of information agreement shall be terminable by either country on reasonable notice and shall provide that information received by either country will be disclosed only to persons or authorities (including courts and administrative bodies) involved in the administration or oversight of, or in the determination of appeals in respect of, taxes of the United States or the beneficiary country and will be used by such persons or authorities only for such purposes.

(ii) Nondisclosure of qualified confidential information sought for civil tax purposes. An exchange of information agreement need not

provide for the exchange of qualified confidential information which is sought only for civil tax purposes if—

(I) the Secretary of the Treasury, after making all reasonable efforts to negotiate an agreement which includes the exchange of such information, determines that such an agreement cannot be negotiated but that the agreement which was negotiated will significantly assist in the administration and enforcement of the tax laws of the United States, and

(II) the President determines that the agreement as negotiated is in the national security interest of the United States.

(iii) Qualified confidential information defined. For purposes of this subparagraph, the term "qualified confidential information" means information which is subject to the nondisclosure provisions of any local law of the beneficiary country regarding bank secrecy or ownership of bearer shares.

(iv) Civil tax purposes. For purposes of this subparagraph, the determination of whether information is sought only for civil tax purposes shall be made by the requesting party.

(D) Coordination with other provisions. Any exchange of information agreement negotiated under subparagraph (C) shall be treated as an income tax convention for purposes of section 6103(k)(4). The Secretary may exercise his authority under subchapter A of chapter 78 to carry out any obligation of the United States under an agreement referred to in subparagraph (C).

(E) Determinations published in the Federal Register. The following shall be published in the Federal Register—

(i) any determination by the President under subparagraph (C)(ii) (including the reasons for such determination),

(ii) any determination by the Secretary under subparagraph (C)(ii) (including the reasons for such determination), and

(iii) any finding by the Secretary under subparagraph (A)(ii) (and any termination thereof).

(7) Seminars, etc. for section 212 purposes. No deduction shall be allowed under section 212 for expenses allocable to a convention, seminar, or similar meeting.