

Internal Revenue Code Section 274(j)(3)(B)

Disallowance of certain entertainment, etc., expenses.

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(j) Employee achievement awards.

(1) General rule.

No deduction shall be allowed under section 162 or section 212 for the cost of an employee achievement award except to the extent that such cost does not exceed the deduction limitations of paragraph (2) .

(2) Deduction limitations.

The deduction for the cost of an employee achievement award made by an employer to an employee-

(A) which is not a qualified plan award, when added to the cost to the employer for all other employee achievement awards made to such employee during the taxable year which are not qualified plan awards, shall not exceed \$400, and

(B) which is a qualified plan award, when added to the cost to the employer for all other employee achievement awards made to such employee during the taxable year (including employee achievement awards which are not qualified plan awards), shall not exceed \$1,600.

(3) Definitions.

For purposes of this subsection -

(A) Employee achievement award. The term "employee achievement award" means an item of tangible personal property which is-

(i) transferred by an employer to an employee for length of service achievement or safety achievement,

(ii) awarded as part of a meaningful presentation, and

(iii) awarded under conditions and circumstances that do not create a significant likelihood of the payment of disguised compensation.



(B) Qualified plan award.

(i) In general. The term "qualified plan award" means an employee achievement award awarded as part of an established written plan or program of the taxpayer which does not discriminate in favor of highly compensated employees (within the meaning of section 414(q)) as to eligibility or benefits.

(ii) Limitation. An employee achievement award shall not be treated as a qualified plan award for any taxable year if the average cost of all employee achievement awards which are provided by the employer during the year, and which would be qualified plan awards but for this subparagraph, exceeds \$400. For purposes of the preceding sentence, average cost shall be determined by including the entire cost of qualified plan awards, without taking into account employee achievement awards of nominal value.

(4) Special rules.

For purposes of this subsection -

(A) Partnerships. In the case of an employee achievement award made by a partnership, the deduction limitations contained in paragraph (2) shall apply to the partnership as well as to each member thereof.

(B) Length of service awards. An item shall not be treated as having been provided for length of service achievement if the item is received during the recipient's 1st 5 years of employment or if the recipient received a length of service achievement award (other than an award excludable under section 132(e)(1)) during that year or any of the prior 4 years.

(C) Safety achievement awards. An item provided by an employer to an employee shall not be treated as having been provided for safety achievement if-

(i) during the taxable year, employee achievement awards (other than awards excludable under section 132(e)(1)) for safety achievement have previously been awarded by the employer to more than 10 percent of the employees of the employer (excluding employees described in clause (ii)), or

(ii) such item is awarded to a manager, administrator, clerical employee, or other professional employee.

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