

## **Reg. Section 1.274-5A(b)(3)** Substantiation requirements

- (a) In general. No deduction shall be allowed for any expenditure with respect to:
- (1) Traveling away from home (including meals and lodging) deductible under section 162 or 212,
  - (2) Any activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such an activity, including the items specified in section 274(e), or
  - (3) Gifts defined in section 274, unless the taxpayer substantiates such expenditure as provided in paragraph (c) of this section. This limitation supersedes with respect to any such expenditure the doctrine of *Cohan v. Commissioner* (C.C.A. 2d 1930) 39 F. 2d 540. The decision held that, where the evidence indicated a taxpayer incurred deductible travel or entertainment expense but the exact amount could not be determined, the court should make a close approximation and not disallow the deduction entirely. Section 274(d) contemplates that no deduction shall be allowed a taxpayer for such expenditures on the basis of such approximations or unsupported testimony of the taxpayer. For purposes of this section, the term "entertainment" means entertainment, amusement, or recreation, and use of a facility therefore; and the term "expenditure" includes expenses and items (including items such as losses and depreciation).
- (b) Elements of an expenditure—
- (1) In general. Section 274(d) and this section contemplate that no deduction shall be allowed for any expenditure for travel, entertainment, or a gift unless the taxpayer substantiates the following elements for each such expenditure:
    - (i) Amount;
    - (ii) Time and place of travel or entertainment (or use of a facility with respect to entertainment), or date and description of a gift;
    - (iii) Business purpose; and
    - (iv) Business relationship to the taxpayer of each person entertained, using an entertainment facility or receiving a gift.
  - (2) Travel. The elements to be proved with respect to an expenditure for travel are:

- (i) Amount. Amount of each separate expenditure for traveling away from home, such as cost of transportation or lodging, except that the daily cost of the traveler's own breakfast, lunch, and dinner and of expenditures incidental to such travel may be aggregated, if set forth in reasonable categories, such as for meals, for gasoline and oil, and for taxi fares;
- (ii) Time. Dates of departure and return for each trip away from home, and number of days away from home spent on business;
- (iii) Place. Destinations or locality of travel, described by name of city or town or other similar designation; and
- (iv) Business purpose. Business reason for travel or nature of the business benefit derived or expected to be derived as a result of travel.



(3) Entertainment in general. Elements to be proved with respect to an expenditure for entertainment are:

- (i) Amount. Amount of each separate expenditure for entertainment, except that such incidental items as taxi fares or telephone calls may be aggregated on a daily basis;
- (ii) Time. Date of entertainment;
- (iii) Place. Name, if any, address or location, and designation of type of entertainment, such as dinner or theater, if such information is not apparent from the designation of the place;
- (iv) Business purpose. Business reason for the entertainment or nature of business benefit derived or expected to be derived as a result of the entertainment and, except in the case of business meals described in section 274(e)(1), the nature of any business discussion or activity;
- (v) Business relationship. Occupation or other information relating to the person or persons entertained, including name, title, or other designation, sufficient to establish business relationship to the taxpayer.

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