


Reg. Section 1.274-5A(f)

Substantiation requirements

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 (f) Substantiation by reimbursement arrangements or per diem, mileage, and other traveling allowances. The Commissioner may, in his discretion, prescribe rules under which-

(1) Reimbursement arrangements covering ordinary and necessary expenses of traveling away from home (exclusive of transportation expenses to and from destination),

(2) Per diem allowances providing for ordinary and necessary expenses of traveling away from home (exclusive of transportation costs to and from destination), and

(3) Mileage allowances providing for ordinary and necessary expenses of transportation while traveling away from home,

will, if in accordance with reasonable business practice, be regarded as equivalent to substantiation by adequate records or other sufficient evidence for purposes of paragraph (c) of this section of the amount of such traveling expenses and as satisfying, with respect to the amount of such traveling expenses, the requirements of an adequate accounting to the employer for purposes of paragraph (e)(4) of this section. If the total travel allowance received exceeds the deductible traveling expenses paid or incurred by the employee, such excess must be reported as income on the employee's return. See paragraph (h) of this section relating to the substantiation of meal expenses while traveling.

(g) Reporting and substantiation of certain reimbursements of persons other than employees.

(1) In general. The purpose of this paragraph is to provide rules for the reporting and substantiation of certain expenses for travel, entertainment, and gifts paid or incurred by one person (hereinafter termed "independent contractor" in connection with services performed for another person other than an employer (hereinafter termed "client or customer") under a reimbursement or other expense allowance arrangement with such client or customer. For purposes of this paragraph, the term "business expenses" means ordinary and necessary expenses for travel, entertainment, or gifts which are deductible under section 162, and the regulations thereunder, to the extent not disallowed by section 274(c). Thus, the term "business expenses" does not include personal, living or family expenses disallowed by section 262 or travel expenses disallowed by section 274(c), and reimbursements for such expenditures must be reported as income by the independent contractor. For purposes of this paragraph, the term "reimbursements" means advances, allowances, or reimbursements received by an independent contractor for travel, entertainment, or gifts, in connection with the performance by him of services for his client or customer, under a reimbursement or other expense allowance arrangement with

his client or customer, and includes amounts charged directly or indirectly to the client or customer through credit card systems or otherwise.

(2) Substantiation by independent contractors. An independent contractor shall substantiate, with respect to his reimbursements, each element of an expenditure (described in paragraph (b) of this section) in accordance with the requirements of paragraph (c) of this section; and, to the extent he does not so substantiate, he shall include such reimbursements in income. An independent contractor shall so substantiate a reimbursement for entertainment regardless of whether he accounts (within the meaning of subparagraph (3) of this paragraph) for such entertainment.

(3) Accounting to a client or customer under section 274(e)(4)(B). Section 274(e)(4)(B) provides that section 274(a) (relating to disallowance of expenses for entertainment) shall not apply to expenditures for entertainment for which an independent contractor has been reimbursed if the independent contractor accounts to his client or customer to the extent provided by section 274(d). For purposes of section 274(e)(4)(B), an independent contractor shall be considered to account to his client or customer for an expense paid or incurred under a reimbursement or other expense allowance arrangement with his client or customer if, with respect to such expense for entertainment, he submits to his client or customer adequate records or other sufficient evidence conforming to the requirements of paragraph (c) of this section.

(4) Substantiation by client or customer. A client or customer shall not be required to substantiate, in accordance with the requirements of paragraph (c) of this section, reimbursements to an independent contractor for travel and gifts, or for entertainment unless the independent contractor has accounted to him (within the meaning of section 274(e)(4)(B) and subparagraph (3) of this paragraph) for such entertainment. See paragraph (h) of this section relating to the substantiation of meal expenses while traveling.

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