

Reg. Section 1.274-5T(b)(6)

Substantiation requirements (temporary)

- (a) In general. For taxable years beginning on or after January 1, 1986, no deduction or credit shall be allowed with respect to—
- (1) Traveling away from home (including meals and lodging),
 - (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),
 - (3) Gifts defined in section 274(b), or
 - (4) Any listed property (as defined in section 280F(d)(4) and § 1.280F-6T(b)), unless the taxpayer substantiates each element of the expenditure or use (as described in paragraph (b) of this section) in the manner provided in paragraph (c) of this section. This limitation supersedes the doctrine found in *Cohan v. Commissioner*, 39 F. 2d 540 (2d Cir. 1930). The decision held that, where the evidence indicated a taxpayer incurred deductible travel or entertainment expenses 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 or credit shall be allowed a taxpayer 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 therefor; and the term "expenditure" includes expenses and items (including items such as losses and depreciation).
- (b) Elements of an expenditure or use—
- (1) In general. Section 274(d) and this section contemplate that no deduction or credit shall be allowed for travel, entertainment, a gift, or with respect to listed property unless the taxpayer substantiates the requisite elements of each expenditure or use as set forth in this paragraph (b).
 - (2) Travel away from home. The elements to be provided with respect to an expenditure for travel away from home 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. The 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 destination 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.
- (4) Entertainment directly preceding or following a substantial and bona fide business discussion. If a taxpayer claims a deduction for entertainment directly preceding or following a substantial and bona fide business discussion on the ground that such entertainment was associated with the active conduct of the taxpayer's trade or business, the elements to be proved with respect to such expenditure, in addition to those enumerated in paragraph (b)(3) (i), (ii), (iii), and (v) of this section are—

- (i) Time. Date and duration of business discussion;
 - (ii) Place. Place of business discussion;
 - (iii) Business purpose. Nature of business discussion, and business reason for the entertainment or nature of business benefit derived or expected to be derived as the result of the entertainment.
 - (iv) Business relationship. Identification of those persons entertained who participated in the business discussion.
- (5) Gifts. The elements to be proved with respect to an expenditure for a gift are—
- (i) Amount. Cost of the gift to the taxpayer;
 - (ii) Time. Date of the gift;
 - (iii) Description. Description of the gift;
 - (iv) Business purpose. Business reason for the gift or nature of business benefit derived or expected to be derived as a result of the gift; and
 - (v) Business relationship. Occupation or other information relating to the recipient of the gift, including name, title, or other designation, sufficient to establish business relationship to the taxpayer.



- (6) Listed property. The elements to be proved with respect to any listed property are—
- (i) Amount—
 - (A) Expenditures. The amount of each separate expenditure with respect to an item of listed property, such as the cost of acquisition, the cost of capital improvements, lease payments, the cost of maintenance and repairs, or other expenditures, and
 - (B) Uses. The amount of each business/investment use (as defined in § 1.280F-6T (d)(3) and (e)), based on the appropriate measure (i.e., mileage for automobiles and other means of transportation and time for other listed property, unless the Commissioner approves an alternative method), and the total use of the listed property for the taxable period.
 - (ii) Time. Date of the expenditure or use with respect to listed property, and

(iii) Business or investment purpose. The business purpose for an expenditure or use with respect to any listed property (see § 1.274-5T(c)(6)(i) (B) and (C) for special rules for the aggregation of expenditures and business use and § 1.280F-6T(d)(2) for the distinction between qualified business use and business/investment use).

See also § 1.274-5T(e) relating to the substantiation of business use of employer-provided listed property and § 1.274-6T for special rules for substantiating the business/investment use of certain types of listed property.

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