

Revenue Ruling 63-144, Q&A 25

Section 274—Disallowance of Certain Entertainment, etc., Expenses

Answers to a series of specific questions concerning the deductibility of business expenditures for entertainment, travel and gifts in accordance with sections 1.274-1 through 1.274-8 (except for section 1.274-5) of the Income Tax Regulations promulgated under section 274 (except for subsection (d) thereof) of the Internal Revenue Code of 1954.

SECTION 1. PURPOSE.

The purpose of this Revenue Ruling is to answer a series of questions relating to the provisions of the income tax regulations promulgated under section 274 (except for subsection (d) thereof) of the Internal Revenue Code of 1954, added by the Revenue Act of 1962, C.B. 1962-3, 111. Each question is designed to present, in relatively simple terms, a point of law of general interest to taxpayers, and individual questions should be read in the context of other questions and answers which follow or precede.

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25. Question: If I take a customer and his wife along with my wife to a night club the same day that I have a substantial business discussion with that customer, is the cost of such entertainment allocable to the wives disallowed under the new rules?

Answer: No. The expense is deductible to the extent it is ordinary and necessary as under prior law (see questions 26 to 30).

EXPENSES FOR WIVES

26. Question: Several of the answers to the questions mention that certain entertainment expenses allocable to the wife of a taxpayer or his business customer are deductible to the extent they are ordinary and necessary as under prior law. To what extent are such expenses considered ordinary and necessary under prior law?

Answer: Whether an expense allocable to the wife of a taxpayer or a business customer is ordinary and necessary as under prior law depends on the facts and circumstances of each case. It must, however, be established that the taxpayer had a clear business purpose rather than a personal or social purpose in incurring such an expense.

27. Question: If a taxpayer entertains a business customer under circumstances where the cost of entertaining the customer is an ordinary and necessary business expense and is not disallowed under the new rules, and the customer's wife joins the taxpayer and the customer during the entertainment because it is impracticable under the circumstances to entertain the customer without his wife, is the cost of entertaining the customer's wife deductible as an ordinary and necessary business expense?

Answer: Yes. Such a case might arise, for example, if the customer was from out of town and had his wife traveling with him.

28. Question: Assuming the same facts as in the preceding question and answer, but, in addition the taxpayer's wife joins them during the entertainment because the customer's wife was present, would the cost of entertainment allocable to the taxpayer's wife be considered an ordinary and necessary expense?

Answer: Yes.

29. Question: Are the travel expenses of a taxpayer's wife deductible if they are ordinary and necessary business expenses as under prior law?

Answer: Yes. However, regulations under prior law which are still in effect provide that "Where a taxpayer's wife accompanies him on a business trip, expenses attributable to her travel are not deductible unless it can be adequately shown that the wife's presence on the trip has a bona fide business purpose. The wife's performance of some incidental service does not cause her expenses to qualify as deductible business expenses."

30. Question: Are travel expenses for a taxpayer's wife who accompanies him on a business trip in order to assist him in entertaining business associates at the destination generally considered ordinary and necessary business expenses?

Answer: Generally not. When this question has been presented to the courts under prior law, the courts have generally found that the wife's travel to perform such duties, even though helpful to the taxpayer's business, is not necessary within the meaning of the statute.