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Revenue Ruling 75-169

Traveling expenses; substantiation. Principles are set forth that are applicable in resolving problems concerning the substantiation of deductions claimed by individuals for traveling expenses; Rev. Rul. 54-497 modified.

The purpose of this Revenue Ruling is to update and restate under the current statute and regulations the position set forth in Rev. Rul. 54-497, 1954-2 C.B. 75, with regard to the principles applicable in resolving problems concerning the substantiation of deductions claimed by individuals for traveling expenses.

The courts in considering questions involving deductions for traveling expenses have frequently stated that each case must be decided on its own particular facts. Furthermore, there appears to be no single rule which will produce the current result in all situations.

The problem most frequently presented relates to the amount properly allowable as a deduction for the cost of meals and lodging incurred by an employee while in a travel status.

Section 162(a) of the Internal Revenue Code of 1954 provides, in part, that a deduction shall be allowed for all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including traveling expenses (including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business. Although the statute allows a taxpayer to deduct the entire amount expended for his meals and lodging while in a travel status, controversies concerning the amount actually expended and allowable as a deduction for such purposes frequently arise because the deduction claimed by the taxpayer is based merely upon rough estimates that are not supported by adequate records.

In this regard, section 274(d) of the Code provides, in part, that no deduction shall be allowed under section 162 for any expenditure with respect to traveling away from home unless the taxpayer substantiates (1) by adequate records, or (2) by sufficient evidence corroborating his own statement, the amount, time, place, and business purpose of such expenditure. This limitation supersedes with respect to any such expenditure the doctrine of *Cohan v. Commissioner*, 39 F. 2d 540 (2d Cir. 1930). The decision in *Cohan* 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 shall be allowed a taxpayer for such expenditures on the basis of such approximations or unsupported testimony of the taxpayer.

Section 1.274-5(b)(2) of the Income Tax Regulations provides that the elements to be proved with respect to an expenditure for travel are the amount of each separate expenditure for traveling away from home, such as the 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; the dates of departure and return for each trip away from home, and the number of days away from home spent on business; the destination or locality of travel, described by the name of the city or town or other similar designation; and the business reason for the travel or nature of the business benefit derived or expected to be derived as a result of the travel.

Section 1.274-5(c) of the regulations provides, in pertinent part, that section 274(d) of the Code contemplates that a taxpayer will maintain and produce such substantiation as will constitute clear proof of an expenditure for travel referred to in section 274. A record of the elements of an expenditure made at or near the time of the expenditure, supported by sufficient documentary evidence, has a high degree of credibility not present with respect to a statement prepared subsequent thereto when generally there is a lack of accurate recall. Thus, the corroborative evidence required to support a statement not made at or near the time of the expenditure must have a high degree of probative value to elevate such statement and evidence to the level of credibility reflected by a record made at or near the time of the expenditure supported by sufficient documentary evidence. The substantiation requirements of section 274(d) are designed to encourage taxpayers to maintain the records, together with documentary evidence. To obtain a deduction for an expenditure for travel a taxpayer must substantiate each element of such an expenditure.

Section 1.274-5(c)(2)(iii) of the regulations provides that documentary evidence, such as receipts, paid bills, or similar evidence sufficient to support an expenditure shall be required for any expenditure for lodging while traveling away from home and any other expenditure of \$25 or more, except that documentary evidence will not be required for transportation charges if not readily available. However, the Commissioner, in his discretion, may prescribe rules waiving such requirements in circumstances where he determines it is impractical for such documentary evidence to be required. See Rev. Rul. 74- 433, 1974-2 C.B. 92.

In general, to meet the "adequate records" requirements of section 274(d) of the Code, a taxpayer shall maintain an account book, diary, statement of expenses or similar record and documentary evidence which, in combination, are sufficient to establish each element of an expenditure. It is not necessary to record information that duplicates information reflected on a receipt so long as such account book and receipt complement each other in an orderly manner.

If a taxpayer fails to establish that he has substantially complied with the "adequate records" requirements of section 274(d) of the Code with respect to an element of an expenditure, he must establish such element by his own statement, whether written or oral, containing specific information in detail as to such element and by other corroborative evidence sufficient to establish such element.

With regard to ordinary and necessary transportation expenses of employees not involving travel away from home, the rules under section 1.162-17(b) of the regulations, pertaining to expenses for which the employee is required to account to his employer, and section 1.162-17(c), pertaining to expenses for which the employee is not required to account to his employer, are applicable where not inconsistent with section 274(d) of the Code and the regulations thereunder.

Rev. Rul. 54-497, insofar as it concerns the principles applicable to the substantiation of deductions claimed by an individual for traveling expenses, is modified.