provides that the holder thereof is entitled to a proprietary lease of a particular apartment in the building. Each lease provides that the lessee shall pay his proportionate share of the corporation's expenses including an amount on account of the curtailment of Y's mortgage indebtedness. B, a calendar year taxpayer, is the original owner of 100 shares of stock in Y corporation. On January 1, 1962, B subleases his apartment for a term of 5 years. B's stock in Y corporation is treated as property subject to the allowance for depreciation under section 167(a), and B, who uses the straight line method of depreciation for purposes of the computation prescribed by paragraph (b)(1)(i) of this section, computes the allowance for depreciation for the taxable year 1962 with respect to such stock as follows:

Y's basis in the building	$200,000
Less: Estimated salvage value	$20,000
Y's basis for depreciation	$180,000
Annual straight line depreciation on Y's building (1/50 of $180,000)	$3,600
Proportion of outstanding shares of stock of Y corporation (1,000) owned by B (100)	1/10
B's proportionate share of annual depreciation (1/10 of $3,600)	$360
Depreciation allowance for 1962 with respect to B's stock (if the limitation in paragraph (c) of this section is not applicable)	$360

Example 2. The facts are the same as in *Example 1* except that the building constructed by Y corporation contained, in addition to the 10 apartments, space on the ground floor for 2 stores which were rented to persons who do not have a proprietary lease of such space by reason of stock ownership. Y corporation's building has a total area of 16,000 square feet, the 10 apartments in such building have an area of 10,000 square feet, and the 2 stores on the ground floor have an area of 2,000 square feet. Thus, the total rentable space in Y corporation's building is 12,000 square feet. B, who uses the straight line method of depreciation for purposes of the computation prescribed by paragraph (b)(1)(i) of this section, computes the allowance for depreciation for the taxable year 1962 with respect to his stock in Y corporation as follows:

Y's basis in the building	$200,000
Less: Estimated salvage value	20,000
Y's basis for depreciation	180,000
Annual straight line depreciation on Y's building (1/50 of $180,000)	3,600
Less: Amount representing rentable space not subject to proprietary lease but held for rental purposes over total rentable space 2,000÷12,000 (of $3,600)	600
Annual depreciation, as reduced	3,000
B's proportionate share of annual depreciation (1/10 of $3,000)	300
Depreciation allowance for 1962 with respect to B's stock (if the limitation in paragraph (c) of this section is not applicable)	300

Example 3. The facts are the same as in *Example 1* except that B occupies his apartment from January 1, 1962, until December 31, 1966, and that on January 1, 1967, B sells his stock to C, an individual, for $15,000. C thereby obtains a proprietary lease from Y corporation with the same rights and obligations as B's lease provided. Y corporation's records disclose that its outstanding mortgage indebtedness is $135,000 on January 1, 1967. C, a physician, uses the entire apartment solely as an office. C's stock in Y corporation is treated as property subject to the allowance for depreciation under section 167(a), and C, who uses the straight line method of depreciation for purposes of the computation prescribed by paragraph (b)(1)(i) of this section, computes the allowance for depreciation for the taxable year 1967 with respect to such stock as follows:

Price paid for each share of stock in Y corporation purchased by C on 1–1–67 ($15,000÷100)	$150
Per share price paid by C multiplied by total shares of stock in Y corporation outstanding on 1–1–67 ($150×1,000)	150,000
Y's mortgage indebtedness outstanding on 1–1–67	135,000
	285,000
Less: Amount attributable to land (assumed to be 1/5 of $285,000)	57,000
	228,000
Less: Estimated salvage value	20,000
Basis of Y's building for purposes of computing C's depreciation	208,000
Annual straight line depreciation (1/45 of $208,000)	4,622.22
C's proportionate share of annual depreciation (1/10 of $4,622.22)	462.22
Depreciation allowance for 1967 with respect to C's stock (if the limitation in paragraph (c) of this section is not applicable)	462.22

[T.D. 6725, 29 FR 5665, Apr. 29, 1964, as amended by T.D. 8316, 55 FR 42006, Oct. 17, 1990]

§ 1.217–1 Deduction for moving expenses paid or incurred in taxable years beginning before January 1, 1970.

(a) *Allowance of deduction*—(1) *In general.* Section 217(a) allows a deduction from gross income for moving expenses paid or incurred by the taxpayer during the taxable year in connection with the commencement of work as an employee at a new principal place of work. Except as provided in section 217,

no deduction is allowable for any expenses incurred by the taxpayer in connection with moving himself, the members of his family or household, or household goods and personal effects. The deduction allowable under this section is only for expenses incurred after December 31, 1963, in taxable years ending after such date and beginning before January 1, 1970, except in cases where a taxpayer makes an election under paragraph (g) of §1.217–2 with respect to moving expenses paid or incurred before January 1, 1971, in connection with the commencement of work by such taxpayer as an employee at a new principal place of work of which such taxpayer has been notified by his employer on or before December 19, 1969. To qualify for the deduction the expenses must meet the definition of the term ''moving expenses'' provided in section 217(b); the taxpayer must meet the conditions set forth in section 217(c); and, if the taxpayer receives a reimbursement or other expense allowance for an item of expense, the deduction for the portion of the expense reimbursed is allowable only to the extent that such reimbursement or other expense allowance is included in his gross income as provided in section 217(e). The deduction is allowable only to a taxpayer who pays or incurs moving expenses in connection with his commencement of work as an employee and is not allowable to a taxpayer who pays or incurs such expenses in connection with his commencement of work as a self-employed individual. The term *employee* as used in this section has the same meaning as in §31.3401(c)–1 of this chapter (Employment Tax Regulations). All references to section 217 in this section are to section 217 prior to the effective date of section 231 of the Tax Reform Act of 1969 (83 Stat. 577).

(2) *Commencement of work.* To be deductible, the moving expenses must be paid or incurred by the taxpayer in connection with the commencement of work by him at a new principal place of work (see paragraph (c)(3) of this section for a discussion of the term *principal place of work*). While it is not necessary that the taxpayer have a contract or commitment of employment prior to his moving to a new location, the deduction is not allowable unless employment actually does occur. The term *commencement* includes (i) the beginning of work by a taxpayer for the first time or after a substantial period of unemployment or part-time employment, (ii) the beginning of work by a taxpayer for a different employer, or (iii) the beginning of work by a taxpayer for the same employer at a new location. To qualify as being in connection with the commencement of work, the move for which moving expenses are incurred must bear a reasonable proximity both in time and place to such commencement. In general, moving expenses incurred within one year of the date of the commencement of work are considered to be reasonably proximate to such commencement. Moving expenses incurred in relocating the taxpayer's residence to a location which is farther from his new principal place of work than was his former residence are not generally to be considered as incurred in connection with such commencement of work. For example, if A is transferred by his employer from place X to place Y and A's old residence while he worked at place X is 25 miles from Y, A will not generally be entitled to deduct moving expenses in moving to a new residence 40 miles from Y even though the minimum distance limitation contained in section 217(c)(1) is met. If, however, A is required, as a condition of his employment, to reside at a particular place, or if such residency will result in an actual decrease in his commuting time or expense, the expenses of the move may be considered as incurred in connection with his commencement of work at place Y.

(b) *Definition of moving expenses*—(1) *In general.* Section 217(b) defines the term *moving expenses* to mean only the reasonable expenses (i) of moving household goods and personal effects from the taxpayer's former residence to his new residence, and (ii) of traveling (including meals and lodging) from the taxpayer's former residence to his new place of residence. The test of deductibility thus is whether the expenses are reasonable and are incurred for the items set forth in (i) and (ii) above.

(2) *Reasonable expenses.* (i) The term *moving expenses* includes only those expenses which are reasonable under the circumstances of the particular move. Generally, expenses are reasonable only if they are paid or incurred for movement by the shortest and most direct route available from the taxpayer's former residence to his new residence by the conventional mode or modes of transportation actually used and in the shortest period of time commonly required to travel the distance involved by such mode. Expenses paid or incurred in excess of a reasonable amount are not deductible. Thus, if moving or travel arrangements are made to provide a circuitous route for scenic, stopover, or other similar reasons, the additional expenses resulting therefrom are not deductible since they do not meet the test of reasonableness.

(ii) The application of this subparagraph may be illustrated by the following example:

Example. A, an employee of the M Company works and maintains his principal residence in Boston, Massachusetts. Upon receiving orders from his employer that he is to be transferred to M's Los Angeles, California office, A motors to Los Angeles with his family with stopovers at various cities between Boston and Los Angeles to visit friends and relatives. In addition, A detours into Mexico for sight-seeing. Because of the stopovers and tour into Mexico, A's travel time and distance are increased over what they would have been had he proceeded directly to Los Angeles. To the extent that A's route of travel between Boston and Los Angeles is in a generally southwesterly direction it may be said that he is traveling by the shortest and most direct route available by motor vehicle. Since A's excursion into Mexico is away from the usual Boston-Los Angeles route, the portion of the expenses paid or incurred attributable to such excursion is not deductible. Likewise, that portion of the expenses attributable to A's delays en route not necessitated by reasons of rest or repair of his vehicle are not deductible.

(3) *Expenses of moving household goods and personal effects.* Expenses of moving household goods and personal effects include expenses of transporting such goods and effects owned by the taxpayer or a member of his household from the taxpayer's former residence to his new residence, and expenses of packing, crating and in-transit storage and insurance for such goods and effects. Expenses paid or incurred in moving household goods and personal effects to a taxpayer's new residence from a place other than his former residence are allowable, but only to the extent that such expenses do not exceed the amount which would be allowable had such goods and effects been moved from the taxpayer's former residence. Examples of items not deductible as moving expenses include, but are not limited to, storage charges (other than in-transit), costs incurred in the acquisition of property, costs incurred and losses sustained in the disposition of property, penalties for breaking leases, mortgage penalties, expenses of refitting rugs or draperies, expenses of connecting or disconnecting utilities, losses sustained on the disposal of memberships in clubs, tuition fees, and similar items.

(4) *Expenses of traveling.* Expenses of traveling include the cost of transportation and of meals and lodging en route (including the date of arrival) of both the taxpayer and members of his household, who have both the taxpayer's former residence and the taxpayer's new residence as their principal place of abode, from the taxpayer's former residence to his new place of residence. Expenses of traveling do not include, for example: living or other expenses of the taxpayer and members of his household following their date of arrival at the new place of residence and while they are waiting to enter the new residence or waiting for their household goods to arrive; expenses in connection with house or apartment hunting; living expenses preceding the date of departure for the new place of residence; expenses of trips for purposes of selling property; expenses of trips to the former residence by the taxpayer pending the move by his family to the new place of residence; or any allowance for depreciation. The deduction for traveling expenses is allowable for only one trip made by the taxpayer and members of his household; however, it is not necessary that the taxpayer and all members of his household travel together or at the same time.

(5) *Residence.* The term *former residence* refers to the taxpayer's principal residence before his departure for his

new principal place of work. The term *new residence* refers to the taxpayer's principal residence within the general location of his new principal place of work. Thus, neither term includes other residences owned or maintained by the taxpayer or members of his family or seasonal residences such as a summer beach cottage. Whether or not property is used by the taxpayer as his residence, and whether or not property is used by the taxpayer as his principal residence (in the case of a taxpayer using more than one property as a residence), depends upon all the facts and circumstances in each case. Property used by the taxpayer as his principal residence may include a houseboat, a house trailer, or similar dwelling. The term *new place of residence* generally includes the area within which the taxpayer might reasonably be expected to commute to his new principal place of work. The application of the terms *former residence, new residence* and *new place of residence* as defined in this paragraph and as used in section 217(b)(1) may be illustrated in the following manner: Expenses of moving household goods and personal effects are moving expenses when paid or incurred for transporting such items from the taxpayer's former residence to the taxpayer's new residence (such as from one street address to another). Expenses of traveling, on the other hand, are limited to those incurred between the taxpayer's former residence (a geographic point) and his new place of residence (a commuting area) up to and including the date of arrival. The date of arrival is the day the taxpayer secures lodging within that commuting area, even if on a temporary basis.

(6) *Individuals other than taxpayer.* In addition to the expenses set forth in section 217(b)(1) which are attributable to the taxpayer alone, the same type of expenses attributable to certain individuals other than the taxpayer, if paid or incurred by the taxpayer, are deductible. Those other individuals must (i) be members of the taxpayer's household, and (ii) have both the taxpayer's former residence and his new residence as their principal place of abode. A member of the taxpayer's household may not be, for example, a tenant residing in the taxpayer's residence, nor an individual such as a servant, governess, chauffeur, nurse, valet, or personal attendant.

(c) *Conditions for allowance*—(1) *In general.* Section 217(c) provides two conditions which must be satisfied in order for a deduction of moving expenses to be allowed under section 217(a). The first is a minimum distance requirement prescribed by section 217(c)(1), and the second is a minimum period of employment requirement prescribed by section 217(c)(2).

(2) *Minimum distance.* For purposes of applying the minimum distance requirement of section 217(c)(1) all taxpayers are divided into one or the other of the following categories: taxpayers having a former principal place of work, and taxpayers not having a former principal place of work. In this latter category are individuals who are seeking full-time employment for the first time (for example, recent high school or college graduates), or individuals who are re-entering the labor force after a substantial period of unemployment or part-time employment.

(i) In the case of a taxpayer having a former principal place of work, section 217(c)(1)(A) provides that no deduction is allowable unless the distance between his new principal place of work and his former residence exceeds by at least 20 miles the distance between his former principal place of work and such former residence.

(ii) In the case of a taxpayer not having a former principal place of work, section 217(c)(1)(B) provides that no deduction is allowable unless the distance between his new principal place of work and his former residence is at least 20 miles.

(iii) For purposes of measuring distances under section 217(c)(1) all computations are to be made on the basis of a straight-line measurement.

(3) *Principal place of work.* (i) A taxpayer's ''principal place of work'' usually is the place at which he spends most of his working time. Generally, where a taxpayer performs services as an employee, his principal place of work is his employer's plant, office, shop, store or other property. However, a taxpayer may have a principal place of work even if there is no one place at which he spends a substantial portion

of his working time. In such case, the taxpayer's principal place of work is the place at which his business activities are centered—for example, because he reports there for work, or is otherwise required either by his employer or the nature of his employment to ''base'' his employment there. Thus, while a member of a railroad crew, for example, may spend most of his working time aboard a train, his principal place of work is his home terminal, station, or other such central point where he reports in, checks out, or receives instructions. In those cases where the taxpayer is employed by a number of employers on a relatively short-term basis, and secures employment by means of a union hall system (such as a construction or building trades worker), the taxpayer's principal place of work would be the union hall.

(ii) In cases where a taxpayer has more than one employment (i.e., more than one employer at any particular time) his principal place of work is usually determined with reference to his principal employment. The location of a taxpayer's principal place of work is necessarily a question of fact which must be determined on the basis of the particular circumstances in each case. The more important factors to be considered in making a factual determination regarding the location of a taxpayer's principal place of work are (*a*) the total time ordinarily spent by the taxpayer at each place, (*b*) the degree of the taxpayer's business activity at each place, and (*c*) the relative significance of the financial return to the taxpayer from each place.

(iii) In general, a place of work is not considered to be the taxpayer's principal place of work for purposes of this section if the taxpayer maintains an inconsistent position, for example, by claiming an allowable deduction under section 162 (relating to trade or business expenses) for traveling expenses ''while away from home'' with respect to expenses incurred while he is not away from such place of work and after he has incurred moving expenses for which a deduction is claimed under this section.

(4) *Minimum period of employment.* Under section 217(c)(2), no deduction is allowed unless, during the 12-month period immediately following the taxpayer's arrival in the general location of his new principal place of work, he is a full-time employee, in such general location, during at least 39 weeks.

(i) The 12-month period and the 39-week period set forth in section 217(c)(2) are measured from the date of the taxpayer's arrival in the general location of his new principal place of work. Generally, the taxpayer's date of arrival is the date of the termination of the last trip preceding the taxpayer's commencement of work on a regular basis, regardless of the date on which the taxpayer's family or household goods and effects arrive.

(ii) It is not necessary that the taxpayer remain in the employ of the same employer for 39 weeks, but only that he be employed in the same general location of his new principal place of work during such period. The *general location* of the new principal place of work refers to the area within which an individual might reasonably be expected to commute to such place of work, and will usually be the same area as is known as the *new place of residence*; see paragraph (b)(5) of this section.

(iii) Only a week during which the taxpayer is a full-time employee qualifies as a week of work for purposes of the 39-week requirement of section 217(c)(2). Whether an employee is a full-time employee during any particular week depends upon the customary practices of the occupation in the geographic area in which the taxpayer works. In the case of occupations where employment is on a seasonal basis, weeks occuring in the off-season when no work is required or available (as the case may be) may be counted as weeks of full-time employment only if the employee's contract or agreement of employment covers the off-season period and the off-season period is less than 6 months. Thus, a school teacher whose employment contract covers a 12-month period and who teaches on a full-time basis for more than 6 months in fulfillment of such contract is considered a full-time employee during the entire 12-month period. A taxpayer will not be deemed as other than a full-time

employee during any week merely because of periods of involuntary temporary absence from work, such as those due to illness, strikes, shutouts, layoffs, natural disasters, etc.

(iv) In the case of taxpayers filing a joint return, either spouse may satisfy this 39-week requirement. However, weeks worked by one spouse may not be added to weeks worked by the other spouse in order to satisfy such requirement.

(v) The application of this subparagraph may be illustrated by the following examples:

Example 1. A is an electrician residing in New York City. Having heard of the possibility of better employment prospects in Denver, Colorado, he moves himself, his family and his household goods and personal effects, at his own expense, to Denver where he secures employment with the M Aircraft Corporation. After working full-time for 30 weeks his job is terminated, and he subsequently moves to and secures employment in Los Angeles, California, which employment lasts for more than 39 weeks. Since A was not employed in the general location of his new principal place of employment while in Denver for at least 39 weeks, no deduction is allowable for moving expenses paid or incurred between New York City and Denver. A will be allowed to deduct only those moving expenses attributable to his move from Denver to Los Angeles, assuming all other conditions of section 217 are met.

Example 2. Assume the same facts as in *Example 1*, except that B, A's wife, secures employment in Denver at the same time as A, and that she continues to work in Denver for at least 9 weeks after A's departure for Los Angeles. Since she has met the 39-week requirement in Denver, and assuming all other requirements of section 217 are met, the moving expenses paid by A attributable to the move from New York City to Denver will be allowed as a deduction, provided A and B filed a joint return.

Example 3. Assume the same facts as in *Example 1*, except that B, A's wife, secures employment in Denver on the same day that A departs for Los Angeles, and continues to work in Denver for 9 weeks thereafter. Since neither A (who has worked 30 weeks) nor B (who has worked 9 weeks) has independently satisfied the 39-week requirement, no deduction for moving expenses attributable to the move from New York City to Denver is allowable.

(d) *Rules for application of section 217(c)(2)*—(1) *Inapplicability of 39-week test to reimbursed expenses.* (i) Paragraph (1) of section 217(d) provides that the 39-week employment condition of section 217(c)(2) does not apply to any moving expense item to the extent that the taxpayer receives reimbursement or other allowance from his employer for such item. A reimbursement or other allowance to an employee for expenses of moving, in the absence of a specific allocation by the employer, is allocated first to items deductible under section 217(a) and then, if a balance remains, to items not so deductible.

(ii) The application of this subparagraph may be illustrated by the following examples:

Example 1. A, a recent college graduate, with his residence in Washington, DC, is hired by the M Corporation in San Francisco, California. Under the terms of the employment contract, M agrees to reimburse A for three-fifths of his moving expenses from Washington to San Francisco. A moves to San Francisco, and pays $1,000 for expenses incurred, for which he is reimbursed $600 by M. After working for M for a period of 3 months, A becomes dissatisfied with the job and returns to Washington to continue his education. Since he has failed to satisfy the 39-week requirement of section 217(c)(2) the expenses totaling $400 for which A has received no reimbursement are not deductible. Under the special rule of section 217(d)(1), however, the deduction for the $600 reimbursed moving expenses is not disallowed by reason of section 217(c)(2).

Example 2. B, a self-employed accountant, who works and resides in Columbus, Ohio, is hired by the N Company in St. Petersburg, Florida. Pursuant to its policy with respect to newly hired employees, N agrees to reimburse B to the extent of $1,000 of the expenses incurred by him in connection with his move to St. Petersburg, allocating $700 for the items specified in section 217(b)(1), and $300 for ''temporary living expenses.'' B moves to St. Petersburg, and incurs $800 of ''moving expenses'' and $300 of ''temporary living expenses'' in St. Petersburg. B receives reimbursement of $1,000 from N, which amount is included in his gross income. Assuming B fails to satisfy the 39-week test of section 217(c)(2), he will nevertheless be allowed to deduct $700 as a moving expense. On the other hand, had N made no allocation between deductible and non-deductible items, B would have been allowed to deduct $800 since, in the absence of a specific allocation of the reimbursement by N, it is presumed that the reimbursement was for items specified in section 217(b)(1) to the extent thereof.

(2) *Election of deduction before 39-week test is satisfied.* (i) Paragraph (2) of section 217(d) provides a special rule which applies in those cases where a taxpayer paid or incurred, in a particular taxable year, moving expenses which would be deductible in that taxable year except for the fact that the 39-week employment condition of section 217(c)(2) has not been satisfied before the time prescribed by law (including extensions thereof) for filing the return for such taxable year. The rule provides that where a taxpayer has paid or incurred moving expenses and as of the date prescribed by section 6072 for filing his return for such taxable year, including extensions thereof as may be allowed under section 6081, there remains unexpired a sufficient portion of the 12-month period so that it is still possible for the taxpayer to satisfy the 39-week requirement, then the taxpayer may elect to claim a deduction for such moving expenses on the return for such taxable year. The election shall be exercised by taking the deduction on the return filed within the time prescribed by section 6072 (including extensions as may be allowed under section 6081). It is not necessary that the taxpayer wait until the date prescribed by law for filing his return in order to make the election. He may make the election on an early return based upon the facts known on the date such return is filed. However, an election made on an early return will become invalid if, as of the date prescribed by law for filing the return, it is not possible for the taxpayer to satisfy the 39-week requirement.

(ii) In the event that a taxpayer does not elect to claim a deduction for moving expenses on the return for the taxable year in which such expenses were paid or incurred in accordance with (i) of this subparagraph, and the 39-week employment condition of section 217(c)(2) (as well as all other requirements of section 217) is subsequently satisfied, then the taxpayer may file an amended return for the taxable year in which such moving expenses were paid or incurred on which he may claim a deduction under section 217. The taxpayer may, in lieu of filing an amended return, file a claim for refund based upon the deduction allowable under section 217.

(iii) The application of this subparagraph may be illustrated by the following examples:

Example 1. A is transferred by his employer, M, from Boston, Massachusetts, to Cleveland, Ohio, and begins working there on November 1, 1964, followed by his family and household goods and personal effects on November 15, 1964. Moving expenses are paid or incurred by A in 1964 in connection with this move. On April 15, 1965, when A files his income tax return for the year 1964, A has been a full-time employee in Cleveland for approximately 24 weeks. Notwithstanding the fact that as of April 15, 1965, A has not satisfied the 39-week employment condition of section 217(c)(2) he may nevertheless elect to claim his 1964 moving expenses on his 1964 income tax return since there is still sufficient time remaining before November 1, 1965, within which to satisfy the 39-week requirement.

Example 2. Assume the facts are the same as in *Example 1,* except that as of April 15, 1965, A has left the employ of M, and is in the process of seeking further employment in Cleveland. Since, under these conditions, A may be unsure whether or not he will be able to satisfy the 39-week requirement by November 1, 1965, he may not wish to avail himself of the election provided by section 217(d)(2). In such event, A may wait until he has actually satisfied the 39-week requirement, at which time he may file an amended return claiming as a deduction the moving expenses paid or incurred in 1964. A may, in lieu of filing an amended return, file a claim for refund based upon a deduction for such expenses. Should A fail to satisfy the 39-week requirement on or before November 1, 1965, no deduction is allowable for moving expenses incurred in 1964.

(3) *Recapture of deduction where 39-week test is not met.* Paragraph (3) of section 217(d) provides a special rule which applies in cases where a taxpayer has deducted moving expenses under the election provided in section 217(d)(2) prior to his satisfying the 39-week employment condition of section 217(c)(2), and the 39-week test is not satisfied during the taxable year immediately following the taxable year in which the expenses were deducted. In such cases an amount equal to the expenses which were deducted must be included in the taxpayer's gross income for the taxable year immediately following the taxable year in which the expenses were deducted. In the event

the taxpayer has deducted moving expenses under the election provided in section 217(d)(2) for the taxable year, and subsequently files an amended return for such year on which he eliminates such deduction, such expenses will not be deemed to have been deducted for purposes of the recapture rule of the preceding sentence.

(e) *Disallowance of deduction with respect to reimbursements not included in gross income.* Section 217(e) provides that no deduction shall be allowed under section 217 for any item to the extent that the taxpayer receives reimbursement or other expense allowance for such item unless the amount of such reimbursement or other expense allowance is included in his gross income. A reimbursement or other allowance to an employee for expenses of moving, in the absence of a specific allocation by the employer, is allocated first to items deductible under section 217(a) and then, if a balance remains, to items not so deductible. For purposes of this section, moving services furnished in-kind, directly or indirectly, by a taxpayer's employer to the taxpayer or members of his household are considered as being a reimbursement or other allowance received by the taxpayer for moving expenses. If a taxpayer pays or incurs moving expenses and either prior or subsequent thereto receives reimbursement or other expense allowance for such item, no deduction is allowed for such moving expenses unless the amount of the reimbursement or other expense allowance is included in his gross income in the year in which such reimbursement or other expense allowance is received. In those cases where the reimbursement or other expense allowance is received by a taxpayer for an item of moving expense subsequent to his having claimed a deduction for such item, and such reimbursement or other expense allowance is properly excluded from gross income in the year in which received, the taxpayer must file an amended return for the taxable year in which the moving expenses were deducted and decrease such deduction by the amount of the reimbursement or other expense allowance not included in gross income. This does not mean, however, that a taxpayer has an option to include or not include in his gross income an amount received as reimbursement or other expense allowance in connection with his move as an employee. This question remains one which must be resolved under section 61(a) (relating to the definition of gross income).

[T.D. 6796, 30 FR 1038, Feb. 2, 1965, as amended by T.D. 7195, 37 FR 13535, July 11, 1972]

§ 1.217–2 Deduction for moving expenses paid or incurred in taxable years beginning after December 31, 1969.

(a) *Allowance of deduction*—(1) *In general.* Section 217(a) allows a deduction from gross income for moving expenses paid or incurred by the taxpayer during the taxable year in connection with his commencement of work as an employee or as a self-employed individual at a new principal place of work. For purposes of this section, amounts are considered as being paid or incurred by an individual whether goods or services are furnished to the taxpayer directly (by an employer, a client, a customer, or similar person) or indirectly (paid to a third party on behalf of the taxpayer by an employer, a client, a customer, or similar person). A cash basis taxpayer will treat moving expenses as being paid for purposes of section 217 and this section in the year in which the taxpayer is considered to have received such payment under section 82 and §1.82–1. No deduction is allowable under section 162 for any expenses incurred by the taxpayer in connection with moving from one residence to another residence unless such expenses are deductible under section 162 without regard to such change in residence. To qualify for the deduction under section 217 the expenses must meet the definition of the term *moving expenses* provided in section 217(b) and the taxpayer must meet the conditions set forth in section 217(c). The term *employee* as used in this section has the same meaning as in §31.3401(c)–1 of this chapter (Employment Tax Regulations). The term *self-employed individual* as used in this section is defined in paragraph (f)(1) of this section.

(2) *Expenses paid in a taxable year other than the taxable year in which reimbursement representing such expenses is received.* In general, moving expenses