

(ii) A partnership shall be treated as an employer of its partners, and

(iii) A partner shall be treated as an employee of the partnership.

(3) *Automobile*. The term *automobile* has the same meaning as prescribed in § 1.61-2T(d)(1)(ii).

(4) *Vehicle*. The term *vehicle* has the same meaning as prescribed in § 1.61-2T(e)(2).

(5) *Personal use*. *Personal use* by an employee of an employer-provided vehicle includes use in any trade or business other than the trade or business of being the employee of the employer providing the vehicle.

(f) *Effective date*. This section is effective for taxable years beginning after December 31, 1985.

[T.D. 8061, 50 FR 46037, Nov. 6, 1985; as amended by T.D. 8063, 50 FR 52312, Dec. 23, 1985]

§ 1.274-7 Treatment of certain expenditures with respect to entertainment-type facilities.

If deductions are disallowed under § 1.274-2 with respect to any portion of a facility, such portion shall be treated as an asset which is used for personal, living, and family purposes (and not as an asset used in a trade or business). Thus, the basis of such a facility will be adjusted for purposes of computing depreciation deductions and determining gain or loss on the sale of such facility in the same manner as other property (for example, a residence) which is regarded as used partly for business and partly for personal purposes.

[T.D. 6659, 28 FR 6507, June 25, 1963]

§ 1.274-8 Effective date.

Except as provided in § 1.274-2 (a) and (e), §§ 1.274-1 through 1.274-7 apply with respect to taxable years ending after December 31, 1962, but only in respect of periods after such date.

[T.D. 8051, 50 FR 36576, Sept. 9, 1985]

§ 1.274-9 Entertainment provided to specified individuals.

(a) *In general*. Paragraphs (e)(2) and (e)(9) of section 274 provide exceptions to the disallowance of section 274(a) for expenses for entertainment, amusement, or recreation activities, or for an entertainment facility. In the case of a

specified individual (as defined in paragraph (b) of this section), the exceptions of paragraphs (e)(2) and (e)(9) of section 274 apply only to the extent that the expenses do not exceed the amount of the expenses treated as compensation (under section 274(e)(2)) or as income (under section 274(e)(9)) to the specified individual. The amount disallowed is reduced by any amount that the specified individual reimburses a taxpayer for the entertainment.

(b) *Specified individual defined*. (1) A specified individual is an individual who is subject to section 16(a) of the Securities Act of 1934 in relation to the taxpayer, or an individual who would be subject to section 16(a) if the taxpayer were an issuer of equity securities referred to in that section. Thus, for example, a specified individual is an officer, director, or more than 10 percent owner of a corporation taxed under subchapter C or subchapter S or a personal service corporation. A specified individual includes every individual who—

(i) Is the direct or indirect beneficial owner of more than 10 percent of any class of any registered equity (other than an exempted security);

(ii) Is a director or officer of the issuer of the security;

(iii) Would be the direct or indirect beneficial owner of more than 10 percent of any class of a registered security if the taxpayer were an issuer of equity securities; or

(iv) Is comparable to an officer or director of an issuer of equity securities.

(2) For partnership purposes, a specified individual includes any partner that holds more than a 10 percent equity interest in the partnership, or any general partner, officer, or managing partner of a partnership.

(3) For purposes of this section, *officer* has the same meaning as in 17 CFR § 240.16a-1(f).

(4) A specified individual includes a director or officer of a tax-exempt entity.

(5) A specified individual of a taxpayer includes a specified individual of a party related to the taxpayer within the meaning of section 267(b) or section 707(b).

(c) *Specified individual treated as recipient of entertainment provided to others.* For purposes of section 274(a), a specified individual is treated as the recipient of entertainment provided to another individual because of the relationship of the other individual to the specified individual if the entertainment is a fringe benefit to the specified individual under section 61(a)(1) (without regard to any exclusions from gross income). Thus, expenses allocable to entertainment provided to the other individual are attributed to the specified individual for purposes of determining the amount of disallowed expenses.

(d) *Entertainment use of aircraft by specified individuals.* For rules relating to entertainment use of aircraft by specified individuals, see § 1.274-10.

(e) *Effective/applicability date.* This section applies to taxable years beginning after August 1, 2012.

[T.D. 9597, 77 FR 45483, Aug. 1, 2012]

§ 1.274-10 Special rules for aircraft used for entertainment.

(a) *Use of an aircraft for entertainment—(1) In general.* Section 274(a) disallows a deduction for certain expenses for entertainment, amusement, or recreation activities, or for an entertainment facility. Under section 274(a) and this section, no deduction otherwise allowable under chapter 1 is allowed for expenses for the use of a taxpayer-provided aircraft for entertainment, except as provided in paragraph (a)(2) of this section.

(2) *Exceptions—(i) In general.* Paragraph (a)(1) of this section does not apply to deductions for expenses for business entertainment air travel or to deductions for expenses that meet the exceptions of section 274(e), § 1.274-2(f), and this section. Section 274(e)(2) and (e)(9) provides certain exceptions to the disallowance of section 274(a) for expenses for goods, services, and facilities for entertainment, recreation, or amusement.

(ii) *Expenses treated as compensation—(A) Employees who are not specified individuals.* Section 274(a), § 1.274-2(a) through (d), and paragraph (a)(1) of this section, in accordance with section 274(e)(2)(A), do not apply to expenses for entertainment air travel provided

to an employee who is not a specified individual to the extent that a taxpayer—

(1) Properly treats the expenses relating to the recipient of entertainment as compensation to an employee under chapter 1 and as wages to the employee for purposes of chapter 24; and

(2) Treats the proper amount as compensation to the employee under § 1.61-21.

(B) *Persons who are not employees and are not specified individuals.* Section 274(a), § 1.274-2(a) through (d), and paragraph (a)(1) of this section, in accordance with section 274(e)(9), do not apply to expenses for entertainment air travel provided to a person who is not an employee and is not a specified individual to the extent that the expenses are includible in the income of that person. This exception does not apply to any amount paid or incurred by the taxpayer that is required to be included in any information return filed by the taxpayer under part III of subchapter A of chapter 61 and is not so included.

(C) *Specified individuals.* Section 274(a), § 1.274-2(a) through (d), and paragraph (a)(1) of this section, in accordance with section 274(e)(2)(B), do not apply to expenses for entertainment air travel of a specified individual to the extent that the amount of the expenses do not exceed the sum of—

(1) The amount treated as compensation to or included in the income of the specified individual in the manner specified under paragraph (a)(2)(ii)(A)(1) of this section (if the specified individual is an employee) or under paragraph (a)(2)(ii)(B) of this section (if the specified individual is not an employee); and

(2) Any amount the specified individual reimburses the taxpayer.

(iii) *Travel on regularly scheduled commercial airlines.* Section 274(a), § 1.274-2(a) through (d), and paragraph (a)(1) of this section do not apply to expenses for entertainment air travel that a taxpayer that is a commercial passenger airline provides to specified individuals of the taxpayer on the taxpayer's regularly scheduled flights on which at least 90 percent of the seats are available for sale to the public to the extent