Joint Committee on Taxation
March 29, 1985
JCX-2-85

AUTO LOG RECORDKEEPING REQUIREMENTS

I. Background and Pre-1984 Act Rules

A taxpayer may deduct expenditures (including depreciation and operating costs) attributable to business use of an automobile or other means of transportation. No deduction is allowed for expenditures attributable to the personal use of an automobile, etc. (other than for interest on purchase indebtedness or for certain State taxes).

Under general tax law principles, the courts have held that a taxpayer bears the burden of proving both the eligibility of any expenditure claimed as a deduction or credit and also the amount of any such eligible expenditure, including the expenses of using a car in the taxpayer's trade or business.

In the Revenue Act of 1962, the Congress enacted section 274(d) to require the taxpayer to substantiate the business purpose, amount, and date of certain types of expenditures "by adequate records or by sufficient evidence corroborating his own statement." (This provision was added to the Code because Congress recognized that "in many instances, deductions are obtained by disguising personal expenses as business expenses.") These specific substantiation rules were made applicable to (1) traveling expenses while away from home, including meals and lodging; (2) expenditures with respect to entertainment, amusement, or recreation activities or facilities; and (3) business gifts. Local travel expenses were not subject to this provision, but instead, were subject to the general substantiation requirements applicable to all other business expenditures.

II. Changes Made by the 1984 Act

Recordkeeping

The Tax Reform Act of 1984 made several amendments to Code section 274(d), effective for taxable years beginning after December 31, 1984.

o The 1984 Act added a requirement that the records kept by the taxpayer must be "contemporaneous."

o The 1984 Act deleted from section 274(d) the alternative method of substantiating deductions, which was by means of sufficient evidence corroborating the taxpayer's own statement.

o The 1984 Act made additional property subject to the requirements of section 274(d), including automobiles and other means of transportation. As a result, local travel expenses, like traveling expenses away from home, became subject to the section 274(d) rules.

Tax preparer rules

The 1984 Act required that paid income tax return preparers must advise the taxpayer of the new substantiation requirements and obtain written confirmation from the taxpayer that these requirements were met. Failure to advise the taxpayer or to obtain the confirmation subjects the return preparer to a penalty of $25 for each failure, unless due to reasonable cause and not to willful neglect.

Negligence penalty

The 1984 Act provided that, for purposes of the negligence penalty, any portion of an underpayment of tax due to a failure to comply with the new recordkeeping requirements is treated as due to negligence, in the absence of clear and convincing evidence to the contrary. The penalty is five percent of the portion of the understatement attributable to the failure to comply with the section 274(d) recordkeeping requirements.

III. Initial IRS Temporary Regulations on Auto Logs

On October 15, 1984, the IRS issued temporary regulations under section 274(d), setting forth requirements for substantiation of business use of automobiles or other vehicles subject to that provision.

In general, these regulations required the taxpayer to keep a log or similar record with a separate entry for each business use of the vehicle, made at or near the time of actual use. Each entry was required to specify the date of the use of the vehicle, the name of the user, the number of miles that the vehicle was used, and the purpose of the use (e.g., to meet a customer for a sales presentation).

The regulations also generally excepted from these substantiation rules vehicles of a type ordinarily not susceptible to personal use, such as trucks specially designed for specific business purposes, cement mixers, and forklifts.

IV. Additional IRS Temporary Regulations on Auto Logs

On February 15, 1985, the IRS issued temporary regulations that amended the initial temporary regulations in certain respects, and added alternative methods available in

certain circumstances for satisfying the statutory requirement of substantiation by adequate contemporaneous records.

Excepted vehicles

The additional regulations added special-purpose farm vehicles (such as tractors and combines) and dump trucks to the class of vehicles not subject to the section 274(d) substantiation rules.

Form of auto logs

The additional regulations provided some increased flexibility with respect to the format of required auto records, the frequency of entries needed, and the content of the required adequate contemporaneous records.

Alternative methods

The additional temporary regulations provided alternative methods, applicable with respect to certain vehicle uses, under which the taxpayer may satisfy the statutory requirement for substantiating business use of automobiles or other vehicles other than by maintaining adequate contemporaneous records in the manner summarized above. These alternative methods apply generally in the case of (1) vehicles used only for business uses where the employer prohibits personal use; (2) vehicles where the employer limits personal use to commuting (except for use by officers or one-percent owners); (3) vehicles used by employees for multiple business stops (such as deliveries); and (4) vehicles used in connection with a farming business.