
Federal Regulations

¶152,867. Preamble to Prop Regs. 6/15/2007. Fed. Reg. Vol. 72, No. 115, p. 33169.

[REG-147171-05]

Deductions for Entertainment Use of Business Aircraft Reg. §§1.61-21, 1.274-9, 1.274-10

Background

This document contains proposed regulations under section 274(e)(2) of the Internal Revenue Code (Code). Section 274(e)(2) was amended by section 907 of the AJCA, Public Law 108-357, and by section 403(mm) of the GOZA, Public Law 109-135. Both amendments are effective for certain expenses incurred after October 22, 2004. On May 27, 2005, the IRS and Treasury Department issued Notice 2005-45 (2005-24 IRB 1228) providing interim guidance on amended section 274(e)(2) and inviting comments. Notice 2005-45 is effective for expenses incurred after June 30, 2005. Commentators submitted written and electronic comments responding to Notice 2005-45. The IRS and Treasury Department have reviewed and considered all the comments in the process of preparing these proposed regulations. See §601.601(d)(2)(ii)(b) of this chapter.

Generally, section 162(a) allows as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. Under section 274(a)(1)(A), no deduction is allowed for an activity generally considered to be entertainment, amusement, or recreation, unless the taxpayer establishes that the activity is directly related to or (in certain cases) associated with the active conduct of the taxpayer's trade or business.

Section 1.274-2(b)(1) of the Income Tax Regulations provides that entertainment means any activity of a type generally considered to constitute entertainment, amusement, or recreation, such as entertaining at night clubs, cocktail lounges, theaters, country clubs, golf and athletic clubs, sporting events, and on hunting, fishing, vacation and similar trips. Similar activities relating solely to the taxpayer's family also may constitute entertainment. Entertainment may include an activity that satisfies the personal, living, or family needs of an individual, such as providing food and beverages or a hotel suite to a business customer or the customer's family. Entertainment does not include activities, however, that are clearly not regarded as constituting entertainment, such as the provision of supper money by an employer to an employee working overtime, the maintenance of a hotel room by an employer for lodging of an employee while in business travel status, or the use of an automobile in the active conduct of a trade or business even though also used for routine personal purposes such as commuting to and from work. Under §1.274-2(b)(1)(ii), an objective test is used to determine whether an activity is of a type generally considered to constitute entertainment.

Section 274(e) provides exceptions to the general disallowance provisions of section 274(a). Prior to amendment by the AJCA, section 274(e)(2) excepted expenses from section 274(a) “to the extent that the expenses are treated by the taxpayer” as compensation to the employee. Under prior law, section 274(e)(9) similarly excepted expenses to the extent that the expenses are treated by the taxpayer as income to persons who are not employees.

Section 274(o) provides that the Secretary shall prescribe regulations necessary to carry out the purposes of the section.

Generally, §1.61-21(b)(1) requires an employee to include in gross income the fair market value of a fringe benefit, such as an entertainment flight, after subtracting amounts paid, by or on behalf of the employee, for the fringe benefit, as well as amounts excluded from income by another section of the Code. If an employee takes a personal flight on an employer's aircraft, and the employer also provides a pilot, the general rule under §1.61-21(b)(6) is that the fair market value of the flight is equal to the amount that an individual would have to pay in an arm's-length transaction to charter the same or a comparable piloted aircraft for that period for the same or a comparable flight. If the employer does not provide a pilot, the general rule under §1.61-21(b)(7) is that the fair market value of the flight is equal to the amount that an individual would have to pay in an arm's-length transaction to rent a comparable aircraft for that period in the geographic area in which the aircraft is used. The regulations do not permit valuation of a flight by reference to the employer's costs.

As an alternative to the general valuation rules just described, §1.61-21(g) provides that an employee's personal flights on an employer's aircraft may be valued using an optional special valuation rule, the non-commercial flight valuation rule. In order to use the non-commercial flight valuation rule, applying the applicable aircraft multiple from §1.61-21(g)(7), it is necessary to know the weight of the employer's aircraft, the number of miles for the flight being valued, and whether the employee receiving the benefit is a control employee within the meaning of §1.61-21(g)(8) or (9). The value of an employee's personal use of a company aircraft is computed by multiplying the Standard Industry Fare Level (SIFL) by the terminal charge to arrive at the value of the flight (the SIFL formula). SIFL is a cents-per-mile factor that, taken with the aircraft multiple and the terminal charge, is intended to approximate coach and first class fares on commercial aircraft.

The consistency rule set forth in §1.61-21(g)(14)(i) provides that a taxpayer who uses the SIFL formula in a calendar year to value any flight provided to an employee must use the SIFL formula to value all flights provided to employees during that calendar year. Notice 2005-45 advised taxpayers that the consistency rule in the regulations would be amended to permit taxpayers to value the entertainment use of aircraft by specified individuals (within the meaning of section 274(e)(2)(B)) under the fair market value rules of §1.61-21(b) but continue to value flights for other employees and for specified individuals not traveling for entertainment purposes using the SIFL formula.

In Sutherland Lumber-Southwest, Inc. v. Comm'r, 114 T.C. 197 (2000), aff'd 255 F.3d 495 (8th Cir. 2001), acq. 2002-1 CB xvii, the Tax Court held that the amount a taxpayer may deduct for the cost of entertainment-related flights under the section 274(e)(2) exception is not limited to the amount included in the income of the employees and corporate officers who took the flights. Rather, the court held that a taxpayer may deduct the full cost of an employee's or officer's non-business flight on the taxpayer's aircraft if the taxpayer includes in the recipient's income the value of the flights computed under the non-commercial flight valuation rule of §1.61-21. As a result, a deduction greater than the amount included in the recipient's income was allowable.

Section 907 of the AJCA was intended to overturn Sutherland Lumber in certain cases. H. Conf. Rept. No. 108-755, at 798 (2004). Specifically, as amended by the AJCA, the section 274(e)(2) and (9) exceptions to the section 274(a)

disallowance apply in the case of a specified individual only “to the extent that the expenses do not exceed the amount of expenses” that are treated as compensation to the specified individual. A specified individual is any individual who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78p(a)) with respect to the taxpayer, or who would be subject to those requirements if the taxpayer were an issuer of equity securities referred to in that section. Section 274(e)(2)(B).

Thus, in the case of a specified individual, the section 274(e)(2) and (9) disallowance exceptions apply only to the extent that a taxpayer treats as compensation to the specified individual an amount equal to or greater than the amount of deductible entertainment expenses allocable to entertainment provided to the specified individual. Expenses allocable to entertainment provided to the specified individual that the taxpayer does not treat as compensation to the specified individual are disallowed.

Explanation of Provisions and Summary of Comments

1. Definition of Entertainment

a. Distinction Between Entertainment and Other Personal Use

Notice 2005-45 references §1.274-2(b)(1) in defining entertainment. Commentators suggested that the proposed regulations should provide additional guidance on the meaning of “entertainment” in order to assist taxpayers in delineating between entertainment use and “nonentertainment” personal use. The proposed regulations do not adopt these comments because these rules are addressed in the existing regulations at §1.274-2(b)(1). Consistent with those regulations, entertainment does not include travel for reasons such as attending to business other than that of the employer, medical purposes, attending funerals, and participating in charitable activities.

b. Primary Purpose Test

Several commentators recommended that the proposed regulations adopt a purpose of the flight test that would characterize a flight as a business flight for all purposes if the primary purpose of the flight is business. Thus, under the recommendation, if the primary purpose of the flight were business, no amount would be disallowed for entertainment provided to specified individuals who are traveling for entertainment purposes. Conversely, if the primary purpose of the flight were entertainment, no amount would be allowed as an expense deduction with respect to individuals traveling for business. The proposed regulations do not adopt these comments. The IRS and Treasury Department believe that disregarding entertainment use by a specified individual would be contrary to Congressional intent in amending section 274(e)(2) to disallow expenses allocable to entertainment use of aircraft by specified individuals. Section 274(e)(2)(B) focuses on the recipient of the entertainment, amusement, or recreation, not the purpose of the employer providing the entertainment or the overall use of the aircraft.

c. Use of Aircraft for Bona Fide Security Purposes

Several commentators suggested that entertainment use by a specified individual of an aircraft should not be treated as entertainment within the meaning of section 274 or subject to section 274(e)(2)(B) if there is a business need to use the aircraft to provide security, pursuant to §1.132-5(m). The proposed regulations do not adopt this comment. Section 1.132-5(m) merely computes the income inclusion for a fringe benefit. It reduces the income inclusion amount rather than eliminates it. It does not convert entertainment flights into business flights.

2. Definition of Expenses

a. Fixed Costs

To calculate the amount of expenses for entertainment use of an aircraft, Notice 2005-45 provides that taxpayers must take into account all of the expenses of maintaining and operating the aircraft. Commentators recommended that entertainment expenses should not include fixed costs such as depreciation. Commentators noted that the legislative history refers to “aircraft operating costs” and “actual cost” and interpreted this language to mean that costs should be limited to variable costs. H. Conf. Rept. 108-755 at 798. Some commentators have suggested that incremental costs are the only costs that should be disallowed.

The proposed regulations do not adopt these comments. Industry use of the term “operating costs” generally refers to all costs, fixed and variable, including depreciation claimed on the taxpayer's tax return. Therefore, the IRS and Treasury Department believe that the use of the term “operating costs” in the legislative history does not reflect Congressional intent to apply section 274(e)(2) to variable costs only. Moreover, the term “aircraft operating costs” in the legislative history is consistent with use of that term in Sutherland Lumber, in which it referred to fixed and variable costs for purposes of section 274(e)(2).

b. Depreciation

Commentators suggested that disallowing accelerated depreciation (including the additional first-year depreciation under, for example, sections 168(k), 1400L(b), and 1400N(d)) would result in excessive amounts disallowed in early years and is inconsistent with Congressional intent to provide incentives for purchasing aircraft. In response to these comments, the proposed regulations permit a taxpayer to elect to calculate depreciation on a straight-line basis over the class life of an aircraft for all of the taxpayer's aircraft for the current year and all future years when calculating the amount of disallowed expenses.

c. Aggregation of Aircraft

Notice 2005-45 permits taxpayers to calculate expenses separately for each aircraft or to aggregate the expenses of aircraft of similar cost profiles. For example, the expenses of turboprop aircraft may be aggregated (but may not be aggregated with the expenses of a jet aircraft) and the expenses of a two-engine jet aircraft may be aggregated (but may not be aggregated with the expenses of a four-engine jet aircraft).

Commentators requested that the proposed regulations provide more details on the definition of cost profile. In response to these comments, the proposed regulations provide additional characteristics that define similar cost profiles. Specific comments are requested on the appropriateness of these characteristics in defining similar cost profiles and on other characteristics that may be useful in determining criteria for aggregating aircraft.

3. Allocation Methods

Notice 2005-45 provides an occupied seat hour or mile formula to allocate expenses to entertainment flights provided to specified individuals. The formula multiplies the hours or miles flown by an aircraft by the number of occupied seats. Then a taxpayer aggregates all fixed and variable expenses to determine the total expenses paid or incurred during the taxable year with respect to an aircraft (or aggregated aircraft) and divides the amount of total expenses by total occupied seat hours or miles to determine the cost per occupied seat hour or mile. Once a taxpayer determines this cost, the taxpayer uses the cost to determine the expenses allocable to each specified individual's entertainment flight.

Commentators expressed concern that this formula may not produce accurate results and is administratively burdensome. The proposed regulations retain the occupied seat hour or mile formula, which allows averaging of fixed and variable costs and yields a simple formula for determining the cost of one occupied seat hour or mile. It does not require a determination of whether a flight is for entertainment of specified individuals or other uses or an allocation of entertainment and other costs for a particular flight. Once the taxpayer determines the cost per occupied seat hour or mile, the disallowance calculation is relatively easy and results in a cost for each occupied seat hour or mile allocable to each entertainment flight taken by a specified individual.

Nevertheless, in response to commentators' concerns, the proposed regulations provide the option of allocating expenses on a flight-by-flight basis as an alternative to using the occupied seat mile or hour formula. Under the flight-by-flight method, a taxpayer may aggregate all expenses for the taxable year and divide the amount of total expenses by the number of flight hours or miles for the taxable year to determine the cost per hour or mile. The taxpayer allocates expenses to each flight by multiplying the number of miles or hours for the flight by the expense per hour or mile and allocates expenses for the flight to the passengers on the flight per capita.

4. Specified Individuals

Notice 2005-45 applies to entertainment use of an aircraft provided to a specified individual of a taxpayer by a party related to the taxpayer within the meaning of sections 267(b) or 707(b). The notice also defines a specified individual as the recipient of entertainment provided to a spouse or family member of the specified individual or to another person because of the person's relationship to the specified individual, cf. §1.61-21(a)(4), and includes those entertainment flights within the potential disallowance of costs to the taxpayer. Commentators expressed concern that these provisions defined specified individual too broadly, exceeding the authority of the IRS and Treasury Department, and suggested that the definition be narrowed.

The proposed regulations do not adopt these comments. In the GOZA, Congress enacted technical corrections that clarify that the related party rules of sections 267(b) and 707(b) apply to section 274(e)(2). The IRS and Treasury Department conclude that Congress intended all entertainment flights to be subject to the section 274(e)(2) requirements. However, comments on how the regulations could define passengers aboard by virtue of a relationship with a specified individual are welcome. Finally, the proposed regulations define officer by reference to regulations at 17 CFR 240.16a-1(f) that implement section 16(a) of the Securities Exchange Act of 1934.

5. Other

a. Determination of Basis

The proposed regulations provide that, if an amount disallowed is allocable to depreciation, §1.274-7 applies and the basis of the aircraft is not reduced for the amount of depreciation disallowed. b. Allocation of Expenses Pro Rata

Numerous commentators inquired how taxpayers should allocate disallowed expenses between fixed and variable expenses. In response to these comments, the proposed regulations provide that the expense disallowance provisions apply to expenses on a pro rata basis.

c. Deadhead Flights

Notice 2005-45 provides that an aircraft returning empty from a flight after discharging passengers or traveling empty to pick up passengers (deadheading) is treated as having the same number and character of occupied seat hours or

miles as the leg or legs of the trip on which passengers are aboard.

Commentators, citing confusion on the treatment of deadhead flights, have requested additional guidance, including safe harbors such as treating the empty flight as if it had the same composition as the prior or subsequent flight. The proposed regulations adopt these comments by providing more detail on how taxpayers should treat deadhead flights.

d. Leasing of Taxpayer Aircraft

Commentators requested guidance on the leasing of aircraft to unrelated third parties. In response to these requests, the proposed regulations provide guidance on the treatment of expenses allocable to taxpayers that charter their aircraft.

e. Aircraft as Entertainment Facilities

Notice 2005-45 addressed the treatment of expenses for the entertainment use of aircraft and did not address the effect of the amendment to section 274(e)(2) on the treatment of aircraft as entertainment facilities. Commentators asked how the entertainment facility disallowance under section 274(a)(1)(B) interacts with rules on aircraft used to provide specified individuals with entertainment.

Section 274(a)(1)(B) disallows all the expenses, direct and indirect, associated with the ownership and operation of an aircraft that is an entertainment facility, except for expenses for business travel and expenses that meet the exceptions of section 274(e). Thus, expenses for personal, nonentertainment travel (such as for medical purposes or attending funerals), as well as for entertainment travel, are disallowed, unless an exception such as 274(e)(2) applies.

The IRS and Treasury Department believe that Congress, in adding section 274(e)(2)(B), contemplated entertainment use of aircraft by specified individuals without specifically considering circumstances in which aircraft may be regarded as entertainment facilities. Therefore, these proposed regulations are limited to use of taxpayer-provided aircraft in entertainment activities under section 274(a)(1)(A), and do not provide rules relating to the application of section 274(e)(2)(B) in circumstances under which aircraft may be regarded as entertainment facilities under section 274(a)(1)(B). Comments are requested on whether the IRS and Treasury Department should issue guidance on aircraft as entertainment facilities and the content of the guidance.

f. Fringe Benefit Consistency Rules

The proposed regulations relax the consistency rule of §1.61-21(g)(14)(i) to permit taxpayers to value the entertainment use of aircraft by specified individuals under the fair market value rules of §1.61-21(b), but continue to value flights for other employees and for specified individuals not traveling for entertainment using either the SIFL formula of §1.61-21(g) or the general (fair market value) rule of §1.61-21(b).

The proposed regulations preserve the consistency rule of § 1.61-21(g)(14)(i) with respect to particular groups of employees (specified and non-specified individuals) and with respect to non-entertainment flights. Thus, if an employer values the entertainment use of aircraft by one specified individual under the fair market value rules of §1.61-21(b) in a calendar year, the employer must use the fair market value rules to value the entertainment use of aircraft by all specified individuals during that calendar year.

The existing consistency rules of §1.61-21(g)(14)(i) continue to apply for valuing the entertainment use of aircraft for other employees (non-specified individuals) and for valuing the personal use of aircraft by specified individuals not traveling for entertainment purposes. Thus, if an employer values the personal use of aircraft by any other employee

or the non-entertainment personal use of aircraft by any specified individual using the SIFL formula of §1.61-21(g) in a calendar year, the employer must use the SIFL formula to value the personal use of aircraft by all other employees and the non-entertainment personal use of aircraft by all specified individuals during that calendar year. Similarly, if the employer values the personal use of aircraft by any other employee or the non-entertainment personal use of aircraft by any specified individual using the fair market value rules of §1.61-21(b) in a calendar year, the employer must use the fair market value rules to value the personal use of aircraft by all other employees and the non-entertainment personal use of aircraft by all specified individuals during that calendar year.

g. Treatment as Compensation to Non-Specified Individuals

The proposed regulations clarify that in order for a taxpayer to meet the requirements of section 274(e)(2) for expenses treated as compensation, the taxpayer must include the proper amount as compensation to an employee on the taxpayer's return.

h. Section 162(m)

Notice 2005-45 provides that any amount for the entertainment use of an aircraft that is treated by the taxpayer as compensation to a specified individual who is also a covered employee is subject to section 162(m). Commentators disagreed with this conclusion. They opined that the deduction disallowance of section 274 relates to the expenses of the aircraft, not amounts treated as income to the employee, and that, under §1.162-25T, the expenses associated with providing the aircraft are not deducted by the employer as compensation. Thus, according to the commentators, expenses treated as compensation for purposes of section 274(e)(2) should not be subject to the deduction limitation of section 162(m). However, the IRS and Treasury Department believe that the deduction limitation of section 162(m) applies to amounts treated as compensation for purposes of section 274(e)(2). The legislative history of section 162(m) provides that the deduction limitation of section 162(m) applies to all remuneration for services, including cash and the cash value of all remuneration (including benefits) paid in a medium other than cash regardless of whether the remuneration is deducted as compensation. H.R. Conf. Rep. No. 103-213 (1993) at 585 (993-3 CB 463). Any amount included in an employee's income for entertainment flights is remuneration for services and therefore is subject to section 162(m).

i. Entertainment Sold to Customers

Commentators requested clarification on whether section 274(e)(8), the exception to section 274(a) for entertainment sold to customers, applies to a taxpayer's expenses for providing an aircraft for the entertainment use of specified individuals. A commentator asserted that section 274(e)(8) excepts expenses of a flight from the section 274(a) disallowance to the extent a passenger pays full and fair consideration. The commentator suggested that expenses are excepted from the section 274(a) disallowance under section 274(e)(8) in three circumstances common in business aviation: (1) A lease of an aircraft without a pilot at a fair market value lease rate; (2) payment of a fair market value charter rate for an aircraft the taxpayer has enrolled under a charter certificate held by a charter company; and (3) payment of expenses allowed to be reimbursed in a time-sharing agreement under Federal Aviation Regulation 91.501(d), 14 CFR 91.501(d).

The proposed regulations do not address these issues, as rules implementing the section 274(e)(8) exception are provided in § 1.274-2(f)(2)(ix). Therefore, it is outside the scope of these proposed regulations on the exceptions under section 274(e)(2) and (9). As stated in §1.274-2(f)(2)(ix), section 274(e)(8) applies only to taxpayers that are in the trade or business of providing entertainment to customers, and only to entertainment sold to customers. Therefore, the exception does not apply to expenses paid or incurred for entertainment provided to individuals by

taxpayers that are not in the trade or business of providing entertainment.

j. Charter Rate Safe Harbor

As an alternative to determining actual expenses, the IRS and Treasury Department are considering whether the regulations should permit taxpayers to determine the amount of their expenses paid or incurred for entertainment flights by reference to charter rates. Under such a safe harbor, taxpayers could elect to treat as the amount of expenses for entertainment flights an undiscounted charter rate for each flight in lieu of calculating the actual expenses of each entertainment flight provided to specified individuals. Under the safe harbor, the undiscounted charter rate for the flight would be allocated to the individuals on the flight in lieu of the occupied seat or flight-by-flight allocation methods.

Under the charter rate method being considered, an undiscounted charter rate would be based on the amount that a person would pay in an arms-length transaction to charter the same or comparable aircraft for the same or comparable flight. A taxpayer would have to show that a charter rate used to value flights is a substantiated actual, published, undiscounted charter rate charged to the general public within 10 days before or after the taxpayer's flight by a qualified chartering company. A qualified chartering company would be a chartering company unrelated to the taxpayer (within the meaning of section 267(b) or 707(b)) that is in the trade or business of chartering aircraft and that operates and charters 10 or more aircraft to the general public during the taxable year. Leaseback arrangements or rates charged for off-peak usage, aircraft downtime, or by employers to their employees would not qualify under the safe harbor. A qualified chartering company would not include a chartering company that charters any aircraft to or for the use of a person (or an employee of the person) that owns any aircraft used by the chartering company. If a taxpayer elects the safe harbor, the taxpayer would have to use it for all entertainment flights on all of the taxpayer's aircraft for the current and all subsequent taxable years unless the taxpayer makes a proper revocation.

The proposed regulations do not include the safe harbor. Nonetheless, comments are requested on whether such a safe harbor, or other safe harbors, should be adopted. Comments are also requested on the availability of substantiated actual, published, undiscounted charter rates charged to the general public by companies that meet the requirements of a qualified chartering company.

Taxpayers may not use a charter rate to determine expenses allocable to entertainment flights unless and until a rule is adopted in final regulations.

Proposed Effective Date

The regulations, as proposed, apply to any taxable year beginning on or after the date of publication of a Treasury decision adopting these rules as final regulations in the Federal Register. However, taxpayers may rely on the rules in these proposed regulations or those provided in Notice 2005-45 for taxable years beginning before the publication of the Treasury decision. If Notice 2005-45 and the proposed regulations include different rules for the same particular issue, then the taxpayer may rely on either the rule set forth in Notice 2005-45 or the rule set forth in the proposed regulations. However, if the proposed regulations include a rule that was not included in Notice 2005-45, taxpayers may not rely on the absence of a rule in Notice 2005-45 to apply a rule contrary to the proposed regulations.

Special Analyses

This notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the

Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand.

A public hearing has been scheduled for October 25, 2007, at 10 a.m., in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter through the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the FOR FURTHER INFORMATION CONTACT section of this preamble.

Drafting Information

The principal authors of these proposed regulations are Michael A. Nixon and Christian T. Wood of the Office of Associate Chief Counsel (Income Tax & Accounting) and Lynne A. Camillo of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt & Government Entities). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, under the authority of 26 U.S.C. 7805, 26 CFR Part 1 is proposed to be amended as follows:

1. INCOME TAXES

PAR. 1 The authority citation for part 1 is amended by adding entries in numerical order to read, in part, as follows:

26 U.S.C. 7805 ***

Section 1.274-9 also issued under 26 U.S.C. 274(o).***

Section 1.274-10 also issued under 26 U.S.C. 274(o).***

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

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