Reimbursement received in 1957 reduced by the amount by which the medical deduction for 1956 would have been greater than $5,000 but for the limitations on the maximum amount provided by section 213	5,050
Deduction allowable for 1956	5,000
Amount of reimbursement received in 1957 to be included in gross income for 1957 as attributable to deduction allowable for 1956	5,000
Amount to be excluded from gross income for 1957 ($8,000 less $5,000)	3,000

(h) *Substantiation of deductions.* In connection with claims for deductions under section 213, the taxpayer shall furnish the name and address of each person to whom payment for medical expenses was made and the amount and date of the payment thereof in each case. If payment was made in kind, such fact shall be so reflected. Claims for deductions must be substantiated, when requested by the district director, by a statement or itemized invoice from the individual or entity to which payment for medical expenses was made showing the nature of the service rendered, and to or for whom rendered; the nature of any other item of expense and for whom incurred and for what specific purpose, the amount paid therefor and the date of the payment thereof; and by such other information as the district director may deem necessary.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.213–1, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 1.214–1 Expenses for the care of certain dependents incurred during taxable years beginning before January 1, 1972.

(a) *General rule.* (1) This section applies only for expenses incurred during taxable years beginning before January 1, 1972. For expenses incurring in taxable years beginning after December 31, 1971, see section 1.214A, and §§ 214A–1 through 1.214A–5.

(2) Section 214 allows, subject to certain limitations, a deduction from gross income of expenses paid for the care of certain dependents where the care is for the purpose of enabling the taxpayer to be gainfully employed. Such expenses are referred to in this section as ''child care'' expenses. The deduction is allowed only for expenses incurred while the taxpayer is gainfully employed or in active search of gainful employment. The employment which is the cause of the incurring of the expenses may, however, consist of service either within or without the home of the taxpayer. Self-employment constitutes employment for purposes of section 214.

(b) *Taxpayers who may qualify for the deduction.* The deduction provided in section 214 is allowed only to a taxpayer who is a woman, a widower, or, for taxable years beginning after December 31, 1963, a husband whose wife is incapacitated or institutionalized. For purposes of this paragraph, the following rules apply:

(1) *A widower.* The deduction is allowed for expenses paid by a taxpayer who is a widower at the time the expenses are incurred. The term *widower* includes (i) a man whose wife has died and who has not remarried, (ii) a man who is divorced from his wife and has not remarried, and (iii) a man who is legally separated from his wife under a decree of legal separation.

(2) *A married woman whose husband is capable of self-support.* If the expenses are paid by a woman (i) who is married at the time the expenses are incurred, (ii) whose husband at that time is not incapable of self-support because he is mentally defective or physically disabled, (iii) who is not divorced or legally separated at the end of the taxable year, and (iv) in the case of a woman who has been deserted by her husband and who does not meet all of the conditions set forth in subparagraph (4)(ii) of this paragraph, the deduction is allowed, but only if she files a joint income tax return with her husband for the taxable year in which the expenses are paid. Further, the amount otherwise deductible shall be reduced by the amount, if any, by which the combined adjusted gross income of the taxpayer and her spouse for the taxable year in which the expenses are paid exceeds $4,500 (for taxable years beginning before January 1, 1964) or $6,000 (for taxable years beginning after December 31, 1963). The amount otherwise deductible is the amount expended for child care or the maximum deduction allowable for any taxable year (see

paragraph (c) of this section), whichever is the lesser. The determination of whether the taxpayer's husband is incapable of self-support because of a mental defect or physical disability shall be made without regard to his income from sources other than his own earnings. For purposes of this subparagraph, the term *earnings* means wages, salaries, commissions, professional fees, and other amounts received as compensation for personal services actually rendered. It does not include income such as pensions, annuities, sick pay, interest, dividends, or rents.

(3) *A married woman whose husband is incapable of self-support.* (i) The deduction is allowed without regard to the limitations described in subparagraph (2) of this paragraph for expenses paid by a married woman whose husband is incapable of self-support because he is mentally defective or physically disabled (as defined in subparagraph (2) of this paragraph) at the time the expenses are incurred.

(ii) A married woman claiming a deduction under this subparagraph shall submit with her income tax return in which the deduction is claimed information disclosing (*a*) the nature of her husband's disability, (*b*) the period of the disability, (*c*) the amount of her husband's earnings (if any) during the period he was incapable of self-support, and (*d*) such other information as is required by the return or instructions relating to the return. Where the husband is capable of self-support for part of a taxable year the child care expenses incurred for such part shall be treated under subparagraph (2) of this paragraph. See example (8) of paragraph (c)(3)(i) or example (8) of paragraph (c)(3)(ii) (whichever is applicable) of this section.

(4) *A single woman.* (i) The deduction is also allowed without regard to the limitation described in subparagraph (2) of this paragraph for expenses paid by a woman who (*a*) is unmarried at the time the expenses are incurred, or (*b*) is, at the close of the taxable year, legally separated from her husband under a decree of divorce or of separate maintenance.

(ii) For taxable years ending after April 2, 1963, the deduction is also allowed without regard to the limitation described in subparagraph (2) of this paragraph for expenses paid by a woman who (*a*) has been deserted by her husband, (*b*) at the time her return for the taxable year is filed, does not know the whereabouts of her husband, (*c*) has not known the whereabouts of her husband at any time during the taxable year, and (*d*) has applied to a court of competent jurisdiction for appropriate process to compel her husband to pay support or otherwise to comply with the law or a judicial order. In general, a wife shall be considered to be deserted by her husband during any period of time during which there is an actual, willful, and voluntary abandonment of the wife by her husband which abandonment is in violation of a legal obligation without legal justification or excuse. The determination as to whether a wife has been deserted by her husband is a question of fact which will not necessarily be governed by provisions of state law relating to desertion or abandonment. The determination as to whether a wife knew the whereabouts of her husband at any particular moment of time will be determined in the light of the particular facts of each case. A wife will be considered to have known the whereabouts of her husband if on a particular day she knew the address at which he was, on such day, residing or carrying on his trade or business, or if she knew the name and address of the person by whom he was employed on such day. A wife will not be considered to have known the whereabouts of her husband merely because she had information that he was residing or working in a particular city or state. To satisfy the requirement of (d) of this subdivision the wife must have initiated legal proceedings consistent with the applicable state law for the purpose of compelling her husband to pay support or, upon failure of the husband to comply with an order or decree of a court requiring the payment of support, must have initiated legal proceedings, consistent with the applicable state law, for the purpose of requiring compliance by the husband of the order or decree of the court. As used in this subdivision, the term *legal proceedings* includes criminal and quasi criminal proceedings as well as civil proceedings.

(5) *A husband whose wife is incapacitated or institutionalized*—(i) *In general.* Subject to certain limitations, the deduction is allowed for expenses paid in a taxable year beginning after December 31, 1963, by a husband if the expenses are incurred during a period in which his wife is incapacitated. However, the deduction is allowed only if the wife is incapacitated for a period of at least 90 consecutive days or a shorter period if the period of incapacitation is terminated by her death. The period of incapacitation need not occur entirely within one taxable year.

(ii) *Limitation on deduction.* Except as otherwise provided in this subdivision, the deduction is allowed only if the husband files a joint income tax return with his wife for the taxable year in which the expenses are paid. Further, the amount otherwise deductible shall be reduced by the amount, if any, by which the combined adjusted gross income of the husband and his spouse exceeds $6,000 for the taxable year in which the expenses are paid. The amount otherwise deductible is the amount expended for child care (and incurred during the period the wife was incapacitated) or the maximum deduction allowable for any taxable year beginning after December 31, 1963 (see paragraph (c) (2) of this section), whichever is the lesser. The limitations set forth in this subdivision do not apply to any expenses incurred in any period during which the taxpayer's wife is institutionalized if (*a*) the institutionalization is for a period of at least 90 consecutive days, or (*b*) the period of institutionalization (regardless of its length) is terminated by her death. The period of institutionalization referred to in subdivision (*a*) or (*b*) of this subdivision need not occur entirely within one taxable year.

(iii) *Incapacitated wife.* A wife is considered to be incapacitated during any period of time during which she is incapable of caring for herself because of a mental or physical defect. A wife is not considered to be incapacitated solely by reason of the fact that she has a mental or physical defect. A wife is incapacitated only if she is mentally or physically defective and as a result of the mental or physical defect is incapable of caring for herself. The fact that a wife, by reason of a mental or physical defect, is incapable of self-support, is unable to engage in any substantial gainful activity, or is unable to perform the normal household functions of a housewife or to care for her minor children, does not, of itself, establish that the wife is incapable of caring for herself. A wife who is mentally or physically defective to the extent that she cannot dress herself or cannot provide for her personal hygienical or nutritional needs will, ordinarily, be considered as incapable of caring for herself. Thus, a wife who because of an injury (whether temporary or permanent) is confined to a bed or to a wheel chair, even though otherwise enjoying good health, is incapable of caring for herself. In addition, a wife who is physically handicapped, or a wife who is mentally defective and has suicidal or other dangerous tendencies, and for such reason requires constant attention of another person is considered to be incapable of caring for herself. A wife is also considered to be incapacitated during any period of time (whether or not for 90 consecutive days) during which she is institutionalized.

(iv) *Institutionalized wife.* A wife is considered to be institutionalized only while she is, for purposes of receiving medical care or treatment, an inpatient, resident, or inmate of a public or private hospital, or other similar institution. A wife who resides at a hospital, sanitarium, or other similar institution other than for purposes of receiving medical care or treatment, as, for example, by reason of her employment, is not institutionalized. Generally, a wife is not considered institutionalized while residing at a health or beauty ranch or similar establishment even though some medical care or treatment is provided.

(v) *Information to be submitted with return.* A married man claiming a deduction under this subparagraph shall submit with his income tax return in which the deduction is claimed information disclosing, if his wife is institutionalized, the period of institutionalization and the name and address of the institution where the wife received medical care or treatment, or, if his

wife is incapacitated (but not institutionalized), the nature and period of her incapacitation. There shall also be submitted such other information as is required by the return or instructions relating to the return. In addition, there should be submitted, wherever possible, a certificate of the attending physician indicating the nature and duration of the wife's mental or physical defect.

(vi) *Computation of 90-day period—(a) Incapacitation.* For the purpose of determining whether a wife is incapacitated for a period of at least 90 consecutive days, different periods of incapacitation which are separated by a period of time during which the wife is not incapacitated cannot be added together. Thus, if a wife is incapacitated during the months of March and April (61 days) and is incapacitated during the entire month of October (31 days), she is not incapacitated for a period of at least 90 consecutive days. Since a wife who is institutionalized is considered to be incapacitated, the period during which a wife is institutionalized is added to a consecutive period during which she is incapacitated (but not institutionalized) for the purpose of determining whether the wife is incapacitated for a period of at least 90 consecutive days. Thus, the 90-consecutive-day requirement is met where a wife remains at home unable to care for herself because of a mental or physical defect for 60 consecutive days and immediately thereafter enters an institution where she continuously remains for an additional 30 days receiving medical care or treatment, whether or not she is able to care for herself during such 30 days.

(*b) Institutionalization.* For the purpose of determining whether a wife is institutionalized for a period of at least 90 consecutive days, different periods of institutionalization which are separated by a period of time during which the wife was not institutionalized cannot be added together. Thus, if a wife is institutionalized during the months of March and April (61 days), spends the months of May and June at home, and is institutionalized during the entire month of July (31 days), she is not institutionalized for a period of at least 90 consecutive days. However, if the wife is incapacitated during all of May and June, the entire period (March through July) constitutes a continuous period of incapacitation, see subdivision (*a*) of this subdivision. The running of a period of institutionalization is not discontinued because of, but rather such period includes, brief absences from the institution such as on weekends or holidays, and transfers from one institution to another.

(vii) *Rule where period of incapacitation does not occur in one taxable year.* The 90-consecutive-day period of incapacitation or of institutionalization need not occur entirely within one taxable year. If part of a period of at least 90 days of incapacitation, or part of a period of incapacitation of less than 90 days which is terminated by reason of the death of the wife, occurs in one taxable year and the remainder occurs in the succeeding taxable year, a deduction is allowed for the child care expenses incurred during the part of the period occurring in each such year, subject, however, to all other conditions and limitations. However, no deduction is allowed for expenses paid in any taxable year which begins before January 1, 1964 (see subdivision (i) of this subparagraph).

(6) *Determination of status.* If child care expenses are incurred in one taxable year and paid in another, the status of a taxpayer described in subparagraphs (1) to (5) of this paragraph, inclusive, shall be determined as of the time at which the expenses are incurred and not when such expenses are paid.

(c) *Computation of deduction*—(1) *In general.* The deduction for child care expenses is allowable only with respect to such expenses actually paid during the taxable year regardless of when the event which occasioned the expenses occurred and regardless of the method of accounting employed by the taxpayer in making his income tax return. If child care expenses are incurred but not paid during the taxable year, no deduction can be taken for such year. Thus, if an expenditure was incurred in December of a particular year, but not paid until January of the following calendar year, no deduction may be taken for the earlier calendar year.

(2) *Dollar limitation on amount of deduction*—(i) *Taxable years beginning before January 1, 1964.* For any taxable year beginning before January 1, 1964, the deduction for child care expenses may not exceed $600 regardless of the number of dependents for whose care the expenses are incurred.

(ii) *Taxable years beginning after December 31, 1963.* Except as otherwise provided in this subdivision, the deduction for child care expenses, for any taxable year beginning after December 31, 1963, may not exceed $600. If the taxpayer has two or more dependents at any time during the taxable year, the $600 limit is increased by the amount of child care expenses incurred by the taxpayer for the period or periods during which the taxpayer has two or more dependents. The $600 limit may not be increased to an amount in excess of $900. For a further limitation on the amount of the allowable deduction, see subparagraphs (2) and (5) of paragraph (b) of this section.

(3) *Examples.* The following examples illustrate the computation of the deduction allowed by section 214 in the case of a taxpayer making his return on the basis of the calendar year. In each example it is assumed that the expenses are of the type which would qualify for the deduction.

(i) The following examples apply to taxable years beginning before January 1, 1964:

Example 1. M was a widower during 1954, until September 1, when he remarried. He paid $50 each month in 1954 for child care expenses. He may take into account, for purposes of the deduction allowed by section 214, only the expenses paid during the taxable year which were incurred while he was unmarried. Since the expenses were $400 ($50 per month from January to August, inclusive), the amount of the deduction is $400. If M had paid $100 per month during 1954, the deduction would be limited to $600, although the expenses incurred while M was unmarried amount to $800.

Example 2. H and W were married during the entire year 1954. W, the wife, paid $900 for child care expenses incurred during the year. The combined adjusted gross income of H and W for 1954 was $5,000. The allowable deduction under section 214 is $100 ($600, the maximum deduction allowable, reduced by $500, the excess of adjusted gross income of $5,000 over $4,500). The deduction of $100 is allowable only if H and W made a joint return for 1954.

Example 3. The facts are the same as in example (2), except that the child care expenses paid during the year were $400. No deduction is allowable under section 214, since the amount of expenses paid, $400, is less than $500 (the excess of the adjusted gross income over $4,500).

Example 4. During 1954, W, a woman, paid $50 each month for child care expenses. She was unmarried until April 1, 1954, and was married for the remainder of the year. H, her husband, was capable of self-support, and the combined adjusted gross income of husband and wife was $4,700. H and W made a joint return for 1954. The total deduction allowable to W under section 214 is $400, computed as follows: $150 as expenses incurred while W was a single woman, and $250 as expenses incurred while W was married; the $250 is arrived at by taking the amount expended while H and W were married, $450, and reducing it by $200 (the excess of adjusted gross income, $4,700 over $4,500).

Example 5. The facts are the same as in example (4), except that the amounts paid are $75 per month ($225 being paid for expenses incurred while W was single and $675 while she was married). The total allowable deduction in this case is $600. $225 is deductible as expenses incurred while W was a single woman. $400 of the expenses incurred during the period of marriage is also deductible. However, the maximum deduction allowable to W is $600. The allowable amount for expenses incurred during the period of marriage is determined as follows: $675 (the amount expended during the period) is reduced to $600 (the maximum deduction allowable) and $600 is then reduced by $200 (the excess of adjusted gross income $4,700 over $4,500) to $400.

Example 6. H and W were married during 1954 prior to July 1, when they received a decree of divorce. She did not remarry during 1954. W paid $100 per month for child care expenses during 1954. The allowable deduction is $600. Since W is considered to have been a single woman during all of 1954, the limitations with respect to the deduction allowed to a married woman are not applicable, and only the $600 limitation applies.

Example 7. H and W married on July 1, 1954. At all times in 1954, until July 1, H was a widower and W was a widow. H and W each paid $750 for child care in 1954, prior to their marriage. Each is allowed a deduction for 1954 of $600, regardless of their adjusted gross income and of the amount of their child care expenditures while married, and whether or not a joint return was filed. However, no additional deduction would be allowed for child care expenses paid after their marriage.

Example 8. H and W were married at all times during the year 1954. As a result of an accident, H incurred injuries which rendered

him incapable of self-support during 1954 until September 1. The adjusted gross income of H and W for 1954 was $4,700. W paid $60 each month in 1954 for child care expenses. The deduction allowable to W by section 214 is $520. This amount is composed of $480, representing the amounts paid during H's period of disability, and $40, representing the allowable deduction of expenses paid in the amount of $240 from September to December, inclusive ($240 is reduced by $200, the excess of the adjusted gross income ($4,700) over $4,500).

Example 9. H and W were married from January 1, 1954 to October 1, 1954, when H died. The combined adjusted gross income of the spouses was $4,800. W paid $50 per month for child care expenses throughout the entire year. The deduction allowed to W if she filed a separate return is $150, the amount paid while she was a widow. If a joint return is filed on behalf of the widow and her deceased husband, the deduction allowable is $300 which includes $150 deductible as a married woman (the amount expended during marriage, $450, being reduced by $300, the excess of $4,800 over $4,500).

(ii) The following examples apply to taxable years beginning after December 31, 1963:

Example 1. B was a widower during 1964, until August 1, when he remarried. He had two dependent children aged 7 and 10. He paid $90 each month in 1964 for child care expenses. His wife was not incapacitated or institutionalized at any time during 1964. He may take into account, for purposes of the deduction allowed by section 214, only those expenses paid during the taxable year which were incurred while he was unmarried. Therefore, the amount of the deduction allowable is $630 ($90 per month from January to July, inclusive). If B had only one dependent during the period he was unmarried, the amount of the deduction allowable would be limited to $600.

Example 2. H and W were married during the entire year 1964. They have one dependent child age 11. W, the wife, paid $800 for child care expenses incurred during the year. The combined adjusted gross income of H and W was $6,400. The allowable deduction under section 214 is $200, computed as follows: $600, the maximum deduction allowable for one dependent, is reduced by $400, the excess of adjusted gross income ($6,400) over $6,000. The deduction of $200 is allowable only if H and W made a joint return for 1964.

Example 3. The facts are the same as in example (2), except that the child care expenses paid during the year were $400. No deduction is allowable under section 214, since the amount of expenses paid, $400, does not exceed the excess of the adjusted gross income ($6,400) over $6,000.

Example 4. During 1964, W, a woman paid $60 each month for child care expenses for her dependent child age 11. She was a widow from January 1, through March 31, and was married for the remainder of the year. H, her husband, was capable of self-support, and the combined adjusted gross income of H and W for 1964 was $6,200. H and W made a joint return for 1964. The total deduction allowable to W under section 214 is $520, computed as follows: $180, as expenses incurred while W was a single woman, plus $340, as expenses incurred while W was married. The $340 is arrived at by reducing the amount expended while H and W were married, $540, by $200 (the excess of adjusted gross income ($6,200) over $6,000).

Example 5. The facts are the same as in example (4), except that the amounts paid for child care expenses are $75 per month ($225 being paid for expenses incurred while W was single and $675 while she was married). The total allowable deduction in this case is $600. $225 is deductible as expenses incurred while W was a single woman. $400 of the expenses incurred during the period of marriage is also deductible. However, the maximum deduction allowable to W is $600. The allowable amount for expenses incurred during the period of marriage is determined as follows: $675 (the amount expended during such period) is reduced to $600 (the maximum deduction allowable for one dependent) and $600 is then reduced by $200 (the excess of adjusted gross income ($6,200) over $6,000) to $400.

Example 6. H and W were married during 1964 prior to July 1, when they received a decree of divorce. W did not remarry during 1964. She had two dependent children age 6 and 8. W paid $100 per month for child care expenses during 1964. The allowable deduction is $900. Since W is considered to have been a single woman during all of 1964, the limitations with respect to the deduction allowed to a married woman are not applicable, and only the maximum dollar limitation applies ($900 for two dependents for the entire year). If W had only one dependent during the entire year, the allowable deduction would be limited to $600.

Example 7. H and W were married on July 1, 1964. At all times in 1964, until July 1, H was a widower and W was a widow. H and W each paid $600 for child care expenses in 1964, prior to their marriage. W had a dependent child age 6, and H had a dependent child age 8. Their combined adjusted gross income for 1964 was $6,400, and they made a joint return. From July 1, to the end of 1964, W paid $100 per month for child care expenses for both children. If a joint return is not made, H and W are each allowed a deduction of $600, regardless of their adjusted gross income, but no additional deduction would be allowed for child care expenses paid after their marriage. If a joint return is made, H is allowed a deduction of $600 for the expenses paid by

him as a widower, and W is allowed a deduction of $800, computed as follows: $600 for expenses paid by her as a widow, and $200 for expenses incurred and paid by her after her marriage. The $200 is arrived at by reducing the amount expended by W from July 1, to the remainder of 1964 (when she had two dependents), $600, by $400, the excess of the adjusted gross income ($6,400) over $6,000. If after her marriage W had incurred and paid child care expenses in the amount of $1,000, W would be allowed a deduction of $900, computed as follows: $600 for expenses paid by her as a widow, and $300 for expenses incurred and paid by her after her marriage. The $300 is arrived at by reducing the $1,000 to $900 (the maximum deduction allowed for two dependents) and the $900 is reduced by $400 (the excess of adjusted gross income, $6,400 over $6,000); and the remainder, $500, is then reduced to $300, which represents the difference between the maximum dollar limitation for two dependents ($900) and the amount paid by W as a widow, $600.

Example 8. H and W were married at all times during 1964. As a result of an accident, H incurred injuries which rendered him incapable of self-support during 1964 until September 1. They had one dependent child age 10. The adjusted gross income of H and W for 1964 was $6,200. W paid $60 each month in 1964 for child care expenses. The deduction allowable to W under section 214 is $520. This amount is composed of $480, the amounts paid during H's period of disability and $40, the expenses paid from September to December, inclusive ($240) reduced by $200, the excess of the adjusted gross income ($6,200) over $6,000.

Example 9. H and W were married from January 1, 1964, until October 1, 1964, when H died. H and W had one child age 10. The combined adjusted gross income of H and W was $6,300. W paid $50 per month for child care expenses throughout the entire year. The deduction allowed to W if she filed a separate return is $150, the amount paid while she was a widow. If a joint return is filed on behalf of the widow and her deceased husband, the deduction allowable is $300, computed as follows: $150 for expenses incurred while W was a widow, and $150 for expenses incurred while W was married (the amount expended during marriage, $450, is reduced by $300, the excess of the adjusted gross income ($6,300) over $6,000).

Example 10. H and W were married at all times during 1964 and have two children. On March 1, 1964, the older child attained age 13 and during the remainder of the year was not a dependent as defined in section 214(d)(1). W incurred and paid $90 each month for child care expenses. H and W's adjusted gross income for 1964 was $6,100, and they made a joint return. The deduction allowable to W under section 214 is $680, computed as follows: $900 (the amount expended from March 1, to the end of 1964) is reduced to $600 (the maximum amount allowable for one dependent) to which is added $180 (the amount expended while H and W had two dependent children under age 13); a total of $780, which amount is reduced by $100 (the excess of the adjusted gross income ($6,100) over $6,000).

Example 11. H and W were married during the entire year 1964 and have two dependents. On March 1, 1964, W became incapacitated and remained unable to care for herself until April 1, 1964, at which time she was admitted to a hospital for medical treatment. W remained in the hospital continuously until June 1, 1964, at which time she returned home. On June 1, 1964, and for the remainder of 1964, W was capable of caring for herself. H incurred and paid $90 a month for child care expenses during 1964. H and W's adjusted gross income for 1964 was $6,100, and they made a joint return for 1964. For purposes of section 214, W is considered to be incapacitated from March 1, 1964 to May 31, 1964, inclusive (a period of at least 90 consecutive days). The allowable deduction is $170, computed as follows: $270, the amount incurred while W was incapacitated, is reduced by $100, the excess of adjusted gross income ($6,100) over $6,000).

Example 12. The facts are the same as in example (11), except that W was in the hospital until August 1, 1964. On August 1, 1964, and for the remainder of 1964, W was capable of caring for herself. The allowable deduction is $360 (the amount incurred while W was institutionalized). No deduction is allowed for the $90 of expenses incurred during March, 1964, because such amount is less than $100 (the excess of the adjusted gross income ($6,100) over $6,000).

(d) *Dependents*—(1) *In general.* The deduction provided by section 214 is allowed only for expenses paid for the care of an individual who (for the taxable year of the taxpayer in which the expenses are incurred) is a dependent of the taxpayer for whom an exemption is allowed under section 151(e)(1). Furthermore, the dependent must, at the time the expenses are incurred, be:

(i) For taxable years beginning before January 1, 1964, under the age of 12 years,

(ii) For taxable years beginning after December 31, 1963, under the age of 13 years, or

(iii) Mentally or physically unable to care for himself.

(2) *Special rules.* (i) It is not necessary that the dependent be permanently disabled in order for the amount expended for his care to be deductible. However, the mere fact that the disability,

whether temporary or permanent, renders him incapable of self-support does not necessarily mean that he is incapable of self-care within the meaning of subparagraph (1)(iii) of this paragraph.

(ii) A dependent who has not attained the age of 13 years (for taxable years beginning before January 1, 1964, who has not attained the age of 12 years) is deemed mentally or physically unable to care for himself. Thus, the deduction for expenses paid for the care of a dependent under the age of 13 years (for taxable years beginning before January 1, 1964, under the age of 12 years) is allowable even though the dependent is not a child or stepchild of the taxpayer.

(iii) The rules provided in sections 151 and 152, with respect to the definition and qualification of an individual as a dependent, govern for the purpose of section 214. Thus, expenses for the care of a child or stepchild under the age of 13 years (for taxable years beginning before Jan. 1, 1964, under the age of 12 years) whom the taxpayer supports are deductible even though the child or stepchild has gross income equal to or in excess of the amount determined pursuant to §1.151–2 applicable to the calendar year in which the taxable year of the taxpayer begins. On the other hand, expenses for the care of an aged parent would not be deductible if the gross income condition of §1.151–2 is not met.

(iv) The term *dependent* does not include the spouse of a taxpayer.

(e) *Payments to a dependent.* No deduction is allowed under section 214 for expenses paid to an individual for whom the taxpayer is allowed, for the taxable year in which the expenses are paid, an exemption under section 151. Thus, if the taxpayer, a working widow, supports her mother and is entitled to claim her as a dependent, she may not deduct amounts paid to the mother for the care of the taxpayer's children.

(f) *What expenses are deductible*—(1) *In general.* In order for an expense to be deductible under section 214, it must meet three conditions: First, the expense must be for the care of a dependent; second, it must be for a dependent's care while the taxpayer is gainfully employed or in search of gainful employment; and third, the expense must be for the purpose of enabling the taxpayer to be gainfully employed. In determining whether an expense meets these conditions, all the facts and circumstances of the case must be taken into consideration.

(2) *Definition of care of a dependent.* (i) In general, the phrase *expenses for the care of a dependent* means amounts expended for the primary purpose of assuring the dependent's well being and protection. It does not include all benefits which may be bestowed upon him. Accordingly, amounts expended to provide food, clothing, or education, are not, in themselves, amounts expended for ''care'' so as to be deductible under section 214. However, where the manner of providing care is such that the expense which must be incurred includes payments for other benefits which are inseparably a part of the care, the full amount of the expense will be considered to be incurred for care. Thus, the full amount paid to a nursery school will be considered to be for the care of the child, even though the school also furnishes lunch, recreational activities, and other benefits.

(ii) The manner of providing the care need not be the least expensive method available to the taxpayer. For example, the taxpayer's mother may reside at the taxpayer's home and be available to afford the taxpayer's child adequate care. Regardless of this fact, the expense incurred for the child at a nursery school or day camp may be expense for the care of the child. See, however, subparagraph (4) of this paragraph with respect to the requirement that the expense must be for the purpose of enabling the taxpayer to be gainfully employed.

(iii) Where a portion of an expenditure is for the care of a dependent and a portion is for other unrelated purposes, a reasonable allocation shall be made and only the portion of the amount paid which is attributable to the care shall be considered an amount to which section 214 is applicable. This rule is applicable if, for example, a servant performs household duties and also cares for the children of the taxpayer. In this case, however, where one of the children is under 13 (for taxable years beginning before January 1, 1964, under 12), and the other (or others) is

over such age, there need be no further allocation between the children under such age and those over such age.

(3) *Period of employment.* Since the deduction is allowed only for expenses for care for those periods during which the taxpayer is gainfully employed (or in active search of gainful employment), an allocation may be required when an expense covers periods of care in which no employment is involved. Thus, if a taxpayer pays $50 each month during the year for care of his child at a foster home, and the taxpayer is employed (or in search of employment) for only two months during the year, the deduction is limited to $100.

(4) *Purpose of expenditure.* Even if an expense is incurred for the care of a dependent, it is not deductible unless it is incurred for the purpose of permitting the taxpayer to be gainfully employed. Whether that is the true purpose of the expense depends upon the facts and circumstances of the particular case. Thus, the fact that the cost of providing care for a dependent is greater than the amounts anticipated to be received from the employment of the taxpayer may indicate that the purpose of the expenditure is other than to permit the taxpayer to be gainfully employed.

(5) *Examples.* The following examples illustrate the application of this paragraph:

Example 1. A widow has a child who is too young to attend public school. In order that she may be gainfully employed, the widow places the child in a nursery school while she is at work. The expenses paid to the nursery school are child care expenses to which the deduction under section 214 is applicable. Assuming the nursery school provides lunch for the child, no allocation is required between that part of the expense which might be considered to be for the lunch as distinguished from the expense of assuring the child's protection.

Example 2. The taxpayer, a single woman, in order to be gainfully employed employs a housekeeper who cares for the taxpayer's two children, aged 9 and 13 years, respectively, in addition to performing regular household duties of cleaning and cooking. If it is assumed that the compensation paid to the housekeeper is $1,200 during the year, and that $500 is allocated to the care of the children, a deduction of $500 is allowed under section 214. No allocation is required for purposes of determining which part of the $500 is for the care of the 9 year old child. If the expenses allocable to the care of the children were $700, the amount of the deduction would be $600, the maximum amount allowable for one dependent.

Example 3. The taxpayer, a single woman, has a dependent grandchild 10 years of age who has been attending public school. The taxpayer who has been working part time is offered a position involving full-time employment which she can accept only if arrangements are made for the care of the child from 8 a.m. to 5:30 p.m. Such arrangements are made at a private school to which she sends the child. The expenses paid to the school are for the care of the child without allocation between that part of the expense which represents tuition and that part which represents true care. The expense is considered to be incurred for the purpose of enabling the taxpayer to be gainfully employed.

Example 4. The taxpayer, a widow with a substantial income, has a child aged 11 who has been attending boarding school for several years. The taxpayer, who has been performing gratuitous services for a philanthropic organization, accepts a part-time job with the organization for which she is paid a small salary. From these facts it would appear that the expense of continuing the child in the boarding school is not for the purpose of enabling the taxpayer to be gainfully employed, whether or not the expense is considered to be incurred for the care of the child.

Example 5. The taxpayer, a widower, has a child who is physically incapable of caring for himself. In order to be gainfully employed the taxpayer sends the child to a school for children who are physically handicapped. The expense of the school, whether a day school or a boarding school, is a child care expense.

Example 6. The taxpayer, a single woman, lives with her mother who is an invalid incapable of caring for herself. In order to be gainfully employed the taxpayer hires a practical nurse whose sole duty consists of providing for the care of the mother while the taxpayer is at work. The expense paid to the nurse may be a ''child care'' expense.

(g) *Expenses qualifying under section 213.* (1) An expense which may constitute an amount otherwise deductible under section 213, relating to medical, etc., expenses, may also, as in example (6) of paragraph (f) of this section, constitute an expense for which a deduction is allowable under section 214. In such a case, that part of the amount for which a deduction is allowed under section 214 shall not be treated as an expense under section 213.

(2) On the other hand, where an amount is treated as a medical expense

under section 213 for purposes of determining the amount deductible under that section, it shall not be allowed as a deduction under section 214.

(3) The provisions of this paragraph may be illustrated by the following examples:

Example 1. W, a single woman, pays $720 during the taxable year for the care of her child who suffers from infantile paralysis. It is assumed that the expenses are of a nature which qualify as medical expenses under section 213. It is also assumed that these expenses are for the purpose of permitting W to be gainfully employed. W's adjusted gross income for the taxable year is $5,000. She is allowed a deduction of $600 for child care expenses under section 214. The balance of the expenses, or $120, she treats as medical expenses. However, this amount does not exceed 3 percent of her adjusted gross income and is thus not allowable as a deduction under section 213.

Example 2. It would not be proper in the case presented in (1) for W first to determine under section 213 her deductible medical expenses (which would be $570 ($720 less 3% × $5,000)), and then claim as a deduction under section 214 the $150 which is not deductible under section 213. The $150 would be disallowed under section 214 for the reason that it was treated as a medical expense in determining the amount deductible under section 213.

Example 3. W, a single woman under the age of 65 years, is also the head of a household. She pays $12,000 during the taxable year for child care expenses which also qualify as medical expenses under section 213. W's adjusted gross income for the taxable year is $18,000. She is allowed a deduction of $600 for child care expenses under section 214. The balance, or $11,400, is treated as medical expenses. The allowable deduction under section 213 for such expenses is the excess of 3 percent of W's adjusted gross income, or $10,860, but subject to the maximum limitation in section 213.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6740, 29 FR 7715, June 17, 1964; T.D. 6778, 29 FR 17900, Dec. 17, 1964; T.D. 7114, 36 FR 9020, May 18, 1971; T.D. 7411, 41 FR 15404, Apr. 13, 1976; T.D. 7643, 44 FR 50337, Aug. 28, 1979]

§ 1.214A–1 Certain expenses to enable individuals to be gainfully employed incurred during taxable years beginning after December 31, 1971, and before January 1, 1976.

(a) *In general.* (1) For expenses incurred during taxable years beginning after December 31, 1971, and before January 1, 1976, section 214 allows (subject to the requirements of this section and §§ 1.214A–2 through 1.214A–5) a deduction for employment-related expenses (as defined in paragraph (c) of this section) which are paid during the taxable year by an individual who maintains a household (within the meaning of paragraph (d) of this section) that includes as a member one or more qualifying individuals (as defined in paragraph (b) of this section). The deduction for expenses allowed under section 214 may be taken only as an itemized deduction and may not be taken into account in determining adjusted gross income under section 62. No deduction shall be allowed under section 214 in respect of any expenses incurred during a taxable year beginning after March 29, 1975, and before January 1, 1976, for which the taxpayer's adjusted gross income is $44,600 or more (or incurred during a taxable year beginning after December 31, 1971, and before March 30, 1975, for which the taxpayer's adjusted gross income is $27,600 or more). Expenses which are taken into account in determining the deduction under section 214:

(i) Must first be reduced by that amount by which a disabled dependent's (age 15 or over) adjusted gross income and nontaxable disability payments for the taxable year exceed $750 or by the total amount of a disabled spouse's nontaxable disability payments (see section 214(e)(5) and § 1.214A–3),

(ii) Are then disallowed to the extent that, for any calendar month, they exceed $400, determined after taking into account the $200 (or more) per calendar-month limitation on the amount of expenses incurred outside the household for the care of a dependent (or dependents) under the age of 15 (see section 214(c)(1) and (2) and § 1.214A–2 (a) and (b)), and

(iii) Finally, when the taxpayer's adjusted gross income for the taxable year exceeds the sum of $35,000 (or $18,000 in the case of a taxable year beginning after December 31, 1971, and before March 30, 1975), must be further reduced, on a monthly basis, by one-half of the amount by which the adjusted gross income for the calendar year exceeds such sum (see section 214(d) and § 1.214A–2(c)).