

## § 1.214A-2

## 26 CFR Ch. I (4-1-04 Edition)

(3) *Costs of maintaining a household.* The cost of maintaining a household shall be the expenses incurred for the mutual benefit of the occupants thereof by reason of its operation as the principal place of abode of such occupants. The expenses of maintaining a household include property taxes, mortgage interest, rent, utility charges, upkeep and repairs, property insurance, and food consumed on the premises. Such expenses do not include the cost of clothing, education, medical treatment, vacations, life insurance, or transportation or payments on mortgage principal or for the purchase, permanent improvement, betterment, or replacement of property. However, the cost of maintaining a household shall not include any amount which represents the value of services performed in the household by the taxpayer or by a qualifying individual described in paragraph (b) of this section. Expenses incurred in respect of which money or other property is received as compensation or reimbursement may not be included as a cost of maintaining a household.

(4) *Monthly proration of annual costs.* In determining the cost incurred for a period of less than a taxable year in maintaining a household, the cost incurred during the entire taxable year must be prorated on the basis of the number of calendar months within such lesser period. For this purpose a period of less than a calendar month will be treated as a calendar month. Thus, for example, if the cost of maintaining a household for a taxable year is \$6,600, and the period in respect of which a determination is being made under section 214 is from June 20 to December 31, the taxpayer must furnish more than \$1,925 ( $[\$6,600 \times 7/12] \times 50\%$ ) in maintaining the household from June 1 to December 31.

(e) *Substantiation.* A taxpayer claiming a deduction under paragraph (a) of this section for employment-related expenses must substantiate by adequate records or other sufficient evidence any deductions taken under this section. For example, if requested, the taxpayer must furnish information as to the nature and period of the physical or mental incapacitation of any dependent or spouse in respect of whom

a deduction is claimed, including necessary information from the attending physician as to the nature of the physical or mental incapacity.

[T.D. 7411, 41 FR 5405, Apr. 13, 1976, as amended by T.D. 7643, 44 FR 50337, Aug. 28, 1979]

### § 1.214A-2 Limitations on deductible amounts.

(a) *Overall monthly limitation of \$400.* The deduction under section 214(a) and § 1.214A-1(a) for employment-related expenses is not allowed in respect of any such expenses in excess of \$400 incurred during any one calendar month. For purposes of the limitation of \$400, a period of less than a calendar month will be treated as a calendar month. Any amount by which employment-related expenses incurred during any calendar month exceed \$400 may not be carried to another calendar month and used in determining the employment-related expenses incurred in such other calendar month. Thus, for example, if a taxpayer incurs employment-related expenses of \$500 during each of the first 6 months of the taxable year and only \$200 of such expenses during each of the last 6 months, the amount of his deduction for the payment during such taxable year of such expenses shall be limited by this paragraph to \$3,600, consisting of \$2,400 ( $\$400 \times 6$ ) incurred during the first 6 months of the taxable year and \$1,200 ( $\$200 \times 6$ ) incurred during the last 6 months of the taxable year. The limitation provided by this paragraph must be applied after making the reduction in the amount of employment-related expenses provided by paragraph (a) of § 1.214A-3 (relating to disability payments) and after the application of the limitation upon the amount deductible provided by paragraph (b) of this section.

(b) *Restriction to expenses incurred for services in the household—(1) In general.* Except as otherwise provided in paragraph (b)(2) of this section, deduction shall be allowed under § 1.214 A-1(a) only for employment-related expenses incurred for services performed in the household of the taxpayer. Thus, for example, if a taxpayer places his invalid father in a nursing home, he is not entitled to deduct his employment-related expenses incurred for his father's care provided by the nursing

home. If, however, the taxpayer's father remains in the home used as the household, the taxpayer is allowed to deduct his employment-related expenses attributable to the employment in the household of a nurse to care for his father.

(2) *Exception for certain expenses incurred outside the household.* A deduction shall be allowed under §1.214A-1(a) for employment-related expenses incurred for services performed outside the household of the taxpayer only if such expenses are incurred for the care of one or more dependents of the taxpayer who are under the age of 15 and who are persons for whom the taxpayer is entitled to a deduction for a personal exemption under section 151(e). The amount of such expenses incurred during a calendar month for services performed outside the household of the taxpayer which may be deducted is limited to:

- (i) \$200, in the case of one such dependent,
- (ii) \$300, in the case of two such dependents, or
- (iii) \$400, in the case of three or more such dependents.

For purposes of the limitation under this subparagraph, a period of less than a calendar month will be treated as a calendar month. Any amount which is taken into account after the application of such limitation is also subject to the monthly limitation of \$400 provided by paragraph (a) of this section.

(3) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

*Example 1.* If during a calendar month a taxpayer incurs employment-related expenses of \$150 for services performed within his household and \$300 for services performed outside the household for the care of his child, age 5, the taxpayer is entitled to deduct only \$350 of such expenses. In such case the \$300 for services performed outside the household is limited to \$200 by subparagraph (2) of this paragraph.

*Example 2.* If the facts are the same as in example (1) except that during the month the taxpayer incurs employment-related expenses of \$250 for services performed within his household, the taxpayer is entitled to deduct only \$400 of the total expenses incurred. In such case the total expenses incurred during the month which may be taken into account (\$450) are limited to \$400 by paragraph (a) of this section.

(c) *Taxpayer's income limitation—(1) In general.* This paragraph applies only if the adjusted gross income of the taxpayer for the taxable year exceeds the amount of \$35,000, in the case of a taxable year beginning after March 29, 1975, and before January 1, 1976 (or the amount of \$18,000 in the case of a taxable year beginning after December 31, 1971, and before March 30, 1975). In either case, in determining the deduction allowable under §1.214A-1(a) for employment-related expenses, the amount of such expenses incurred during any calendar month of the taxable year must be reduced by an amount equal to the excess of the adjusted gross income of the taxpayer for the taxable year over the applicable income limitation (\$35,000 or \$18,000 as the case may be) divided by twice the number of calendar months in the taxable year. For purposes of applying the taxpayer's income limitation a period of less than a calendar month will be treated as a calendar month. The limitation provided by this paragraph must be applied after making the reduction in the amount of employment-related expenses provided by paragraph (a) of §1.214A-3 and after the application of the limitations upon the amount deductible provided by paragraph (a) of §1.214A-3 and after the application of the limitations upon the amount deductible provided by paragraphs (a) and (b) of this section. The application of this subparagraph may be illustrated by the following examples:

*Example 1.* A, a single individual who uses the fiscal year ending March 31 as the taxable year, incurs (and pays) during May 1975 employment-related expenses of \$600. He has adjusted gross income of \$41,000 for the fiscal year ending March 31, 1976. Under these circumstances the amount of employment-related expenses for the month of May 1975 which may be taken into account under paragraph (a) of §1.214A-1 is \$150, determined as follows:

Employment-related expenses incurred during May (\$600, but not to exceed \$400 under par. (a) of this section) .....	\$400
Less: Reduction under this subparagraph:	
Adjusted gross income for taxable year	41,000
Less: Taxpayer's income limitation applicable to taxable year beginning after March 29, 1975 .....	35,000
Excess adjusted gross income over income limitation .....	6,000

§ 1.214A-3

Excess divided by twice the number of calendar months in taxable year (\$6,000+[2×12]) .....	250
Employment-related expenses to be taken into account .....	150

*Example 2.* Assume the same facts as in example (1) except that A incurs employment-related expenses of only \$200 during May 1975. Under these circumstances no amount of employment-related expenses may be taken into account for the month of May under paragraph (a) of § 1.214A-1 because the expenses of \$200 for the month are fully offset by the reduction of \$250 required under this subparagraph.

*Example 3. B,* a single individual who uses the calendar year as the taxable year, incurs and pays during June, 1975, employment-related expenses of \$500. On August 31, 1975, B dies. His adjusted gross income for the taxable year ending August 31 is \$22,800. Under such circumstances the amount of employment-related expenses for the month of June which may be taken into account under paragraph (a) of § 1.214A-1 is \$100, determined as follows:

Employment-related expenses incurred during June (\$500, but not to exceed \$400 under par. (a) of this sec.) .....	\$400
Less: Reduction under this subparagraph:	
Adjusted gross income for taxable year	22,800
Less: Taxpayer's income limitation applicable to taxable year beginning before March 30, 1975 .....	18,000
Excess adjusted gross income over income limitation .....	4,800
Excess divided by twice the number of calendar months in taxable year (\$4,800+[2×8]) .....	300
Employment-related expenses to be taken into account .....	100

(2) *Marital status.* For purposes of paragraph (c)(1) of this section, the adjusted gross income of the taxpayer for his taxable year shall include the adjusted gross income of his spouse for such year if he is married for the entire taxable year. If the taxpayer is married during only a part of his taxable year, his adjusted gross income for the taxable year shall include the adjusted gross income of his spouse for only such period within the taxable year during which he is married. Thus, if the taxpayer and his wife use the calendar year as the taxable year and the taxpayer's wife dies on May 15 and he does not remarry before the close of his taxable year, the adjusted gross income of the wife for the period from January 1 to May 15 must be included in applying the income limitation for the taxable year under section 214(d) and para-

graph (c)(1) of this section. If, however, in such case the taxpayer were to remarry on October 15 of his taxable year and file a single return jointly with the second wife, the adjusted gross income of the first wife for the period from January 1 to May 15 and the adjusted gross income of the second wife for the period from October 15 to December 31 must be included in applying the income limitation for the taxable year under paragraph (c)(1) of this section.

[T.D. 7411, 41 FR 15407, Apr. 13, 1976, as amended by T.D. 7643, 44 FR 50337, Aug. 28, 1979]

**§ 1.214A-3 Reduction of expenses for certain disability payments and adjusted gross income.**

(a) *Amount of reduction.* This section applies only if the taxpayer incurs employment-related expenses during a taxable year solely attributable to a qualifying individual who is either a dependent (other than a dependent described in § 1.214A-1(b)(1)(i)) of the taxpayer or a spouse of the taxpayer and who is physically or mentally incapable of caring for himself. The amount of such expenses, which may be taken into account under section 214 shall be reduced:

(1) In the case of such expenses attributable to a dependent who is physically or mentally incapable of caring for himself, by the excess, if any, over \$750 of the sum of (i) such dependent's adjusted gross income for such taxable year and (ii) the disability payments (as defined in paragraph (b) of this section) he receives during such year, and

(2) In the case of such expenses attributable to a spouse who is physically or mentally incapable of caring for himself, by the disability payments (as defined in paragraph (b) of this section) such spouse receives during such taxable year.

The reduction so required must be made on the basis of a calendar month. Thus, the employment-related expenses attributable to a spouse which are incurred during any calendar month of the taxable year must be reduced by an amount equal to the disability payments received by the spouse during such taxable year divided by the number of calendar