

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.
(Also: Part I, §§ 62, 162)

Rev. Proc. 2021-15

SECTION 1. PURPOSE

This revenue procedure provides a safe harbor for eligible educators, within the meaning of § 62(d)(1) of the Internal Revenue Code (Code), to treat unreimbursed expenses paid or incurred after March 12, 2020, for personal protective equipment, disinfectant, and other supplies (COVID-19 Protective Items) used for the prevention of the spread of COVID-19 in the classroom, as expenses that are described in § 62(a)(2)(D)(ii) and allowable as a deduction under § 62(a)(2)(D) pursuant to section 275 of the COVID-related Tax Relief Act of 2020 (COVID Tax Relief Act), which was enacted as part of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182, 1978 (2020).

SECTION 2. BACKGROUND

.01 Section 62 of the Code sets forth the deductions an individual may deduct from gross income in arriving at adjusted gross income. Section 62(a)(2)(D) provides, in

part, that deductions allowed under § 162 not in excess of \$250 (\$500 if married filing jointly and both spouses are eligible educators, but not more than \$250 each) that consist of unreimbursed expenses described in § 62(a)(2)(D)(ii) that are paid or incurred by an eligible educator may be deducted in arriving at gross income. The unreimbursed expenses described in § 62(a)(2)(D)(ii) are those paid or incurred by an eligible educator in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services), other equipment, and supplementary materials used by the eligible educator in the classroom.

.02 Section 62(d)(1)(A) defines an “eligible educator” as any individual who is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year. Section 62(d)(1)(B) defines a “school” as any school which provides elementary or secondary education, as determined under State law.

.03 For an unreimbursed expense to be deducted from gross income in arriving at adjusted gross income under § 62(a)(2)(D), the expense must be allowed as a deduction under § 162(a) of the Code as an ordinary and necessary expense paid or incurred during the taxable year in carrying on the eligible educator’s trade or business of performing services as an employee.

.04 Section 275 of the COVID Tax Relief Act requires the Secretary of the Treasury or the Secretary’s delegate to clarify that COVID-19 Protective Items used for the prevention of the spread of COVID-19 are treated as described in § 62(a)(2)(D)(ii) if paid or incurred by an eligible educator after March 12, 2020.

SECTION 3. SAFE HARBOR FOR COVID-19 PROTECTIVE ITEMS UNDER

§ 62(a)(2)(D)

In accordance with section 275 of the COVID Tax Relief Act, an eligible educator may treat unreimbursed expenses paid or incurred after March 12, 2020, for COVID-19 Protective Items that are, or will be, used by that eligible educator for the prevention of the spread of COVID-19 in the classroom, as expenses that are described in § 62(a)(2)(D)(ii) and allowable as a deduction under § 62(a)(2)(D), subject to the aggregate dollar limitation provided in such provision. For purposes of this revenue procedure, COVID-19 Protective Items include, but are not limited to: face masks; disinfectant for use against COVID-19; hand soap; hand sanitizer; disposable gloves; tape, paint or chalk used to guide social distancing; physical barriers (for example, clear plexiglass); air purifiers; and other items recommended by the Centers for Disease Control and Prevention (CDC) to be used for the prevention of the spread of COVID-19.

SECTION 4. APPLICABILITY

This revenue procedure applies to unreimbursed expenses paid or incurred by an eligible educator after March 12, 2020, for COVID-19 Protective Items used for the prevention of the spread of COVID-19 in the classroom.

SECTION 5. CONTACT INFORMATION

The principal authors of this revenue procedure are Sharon Horn and Edward Schwartz of the Office of the Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure contact Sharon Horn at (202) 317-7003 (for questions relating to § 162), or Edward Schwartz at (202) 317-7006 (for questions relating to § 62(a)(2)) (not a toll-free call).