

Section 274(p) Qualified wellness awards

(1) General rule

No deduction shall be allowed under section 162 or section 212 for the cost of a qualified wellness award except to the extent that such cost does not exceed the deduction limitations of paragraph (2).

(2) Deduction limitations

The deduction for the cost of a qualified wellness award made by an employer to an employee -

- (A)** which is not a qualified plan award, when added to the cost to the employer for all other qualified wellness awards made to such employee during the taxable year which are not qualified plan awards, shall not exceed \$400, and
- (B)** which is a qualified plan award, when added to the cost to the employer for all other qualified wellness awards made to such employee during the taxable year (including qualified wellness awards that are not qualified plan awards), shall not exceed \$1,600.

(3) Definitions

For purposes of this subsection -

(A) Qualified wellness award

The term “qualified wellness award” means an item of tangible personal property that is -

- (i)** transferred by an employer to an employee for participation in a qualified wellness program,
- (ii)** awarded as part of a qualified wellness program, and
- (iii)** awarded under conditions and circumstances that do not create a significant likelihood of the payment of disguised compensation.

(B) Qualified plan award

(i) In general

The term “qualified plan award” means a qualified wellness award that is awarded as part of an established written plan or program of the taxpayer which does not discriminate in favor of highly compensated employees (within the meaning of section 414(q)) as to eligibility or benefits.

(ii) Limitation

A qualified wellness award shall not be treated as a qualified plan award for any taxable year if the average cost of all such qualified wellness awards that are provided by the employer during the year, and that would be qualified plan awards but for this subparagraph, exceeds \$400. For purposes of the preceding sentence, average cost shall be determined by including the entire cost of qualified plan awards, without taking into account qualified wellness awards of nominal value.

(C) Qualified wellness program

The term “qualified wellness program” shall have the same meaning as in section 45R(b)(1).

(4) Special rules

For purposes of this subsection -

(A) Partnerships

In the case of a qualified wellness award made by a partnership, the deduction limitations contained in paragraph (2) shall apply to the partnership as well as to each member thereof.

(B) Qualified wellness awards

An item shall not be treated as being a qualified wellness award unless -

- (i)** the employer certifies the employee’s participation in a qualified wellness program, or
- (ii)** such item is awarded to a manager, administrator, clerical employee, or other professional employee.