

### § 1.61-3

### 26 CFR Ch. I (4-1-02 Edition)

rule of this paragraph (j) may be used to value a meal provided at an employer-operated eating facility for employees (as defined in § 1.132-7T). For rules relating to an exclusion for the value of meals provided at an employer-operated eating facility for employees, see § 1.132-7T.

(2) *Valuation formula*—(i) *In general.* The value of all meals provided at an employer-operated eating facility for employees during a calendar year is 150 percent of the direct operating costs of the eating facility (“total meal value”). For purposes of this paragraph (j), the definition of direct operating costs provided in § 1.132-7T applies. The taxable value of meals provided at an eating facility may be determined in two ways. The “individual meal subsidy” may be treated as the taxable value of a meal provided at the eating facility (see paragraph (j)(2)(ii) of this section). Alternatively, the employer may allocate the “total meal subsidy” among employees (see paragraph (j)(2)(iii) of this section).

(ii) *“Individual meal subsidy” defined.* The “individual meal subsidy” is determined by multiplying the price charged for a particular meal by a fraction, the numerator of which is the total meal value and the denominator of which is the gross receipts of the eating facility, and then subtracting the amount paid for the meal. The taxable value of meals provided to a particular employee during a calendar year, therefore, is the sum of the individual meal subsidies provided to the employee during the calendar year.

(iii) *Allocation of “total meal subsidy.”* Instead of using the individual meal value method, the employer may allocate the “total meal subsidy” (total meal value less the gross receipts of the facility) among employees in any manner reasonable under the circumstances.

[T.D. 8063, 50 FR 52285, Dec. 23, 1985, as amended by T.D. 8256, 54 FR 28582, July 6, 1989; T.D. 8457, 57 FR 62195, Dec. 30, 1992]

### § 1.61-3 Gross income derived from business.

(a) *In general.* In a manufacturing, merchandising, or mining business, “gross income” means the total sales, less the cost of goods sold, plus any in-

come from investments and from incidental or outside operations or sources. Gross income is determined without subtraction of depletion allowances based on a percentage of income to the extent that it exceeds cost depletion which may be required to be included in the amount of inventoriable costs as provided in § 1.471-11 and without subtraction of selling expenses, losses or other items not ordinarily used in computing costs of goods sold or amounts which are of a type for which a deduction would be disallowed under section 162 (c), (f), or (g) in the case of a business expense. The cost of goods sold should be determined in accordance with the method of accounting consistently used by the taxpayer. Thus, for example, an amount cannot be taken into account in the computation of cost of goods sold any earlier than the taxable year in which economic performance occurs with respect to the amount (see § 1.446-1(c)(1)(ii)).

(b) *State contracts.* The profit from a contract with a State or political subdivision thereof must be included in gross income. If warrants are issued by a city, town, or other political subdivision of a State, and are accepted by the contractor in payment for public work done, the fair market value of such warrants should be returned as income. If, upon conversion of the warrants into cash, the contractor does not receive and cannot recover the full value of the warrants so returned, he may deduct any loss sustained from his gross income for the year in which the warrants are so converted. If, however, he realizes more than the value of the warrants so returned, he must include the excess in his gross income for the year in which realized.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 7207, 37 FR 20767, Oct. 5, 1972; T.D. 7285, 38 FR 26184, Sept. 19, 1973; T.D. 8408, 57 FR 12419, Apr. 10, 1992]

### § 1.61-4 Gross income of farmers.

(a) *Farmers using the cash method of accounting.* A farmer using the cash receipts and disbursements method of accounting shall include in his gross income for the taxable year—