

117-202 Definitions; Reimbursement for Costs Incurred in Complying with Summons

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Section 1. For purposes of this regulation the words terms and phrases when used herein shall have the meaning ascribed thereto.

(a) A “taxpayer” is a person, firm, corporation or other entity with respect to whose income, sales or business the summons is issued.

(b) A “third party” is the person, firm, corporation or other entity upon whom the summons is served, other than:

1. a taxpayer; or
2. an officer, employee, agent, accountant, or attorney of a taxpayer who, at the time the summons is served, is acting as such.

(c) “Third party records” are books, papers, records or other information in which the taxpayer has no proprietary interest at the time the summons is served.

(d) “Directly incurred costs” are those incurred solely, immediately and necessarily as a consequence of searching for, reproducing or transporting records in order to comply with a summons. Proportionate allocation of fixed costs (overhead, equipment depreciation, etc.) is not considered to be directly incurred. However, where a third party’s records are stored at an independent storage facility that charges the third party a fee to search for, reproduce or transport particular records requested, such fees are considered to be directly incurred by the summoned third party.

(e) “Search Costs” include only the amount of time incurred in locating and retrieving records or information.

(f) “Reproduction Costs” are those incurred in making copies or duplicates of summoned documents, transcripts and other similar material.

(g) “Transportation Costs” are limited to:

1. Costs incurred to transport personnel to locate and retrieve records or information requested; and
2. Costs incurred solely by the need to convey the summoned material to the place of examination.

Section 2. A third party in compliance with a summons is entitled to payment as herein provided for directly incurred costs for searching, reproducing or transporting such party's records, books or papers. The payment shall be in accordance with the following:

1. For reproduction costs

(a) ten (10) cents for each page reproduced;

(b) the actual cost of each photograph, film, or other material reproduced.

2. For search costs

The amount of Five (5) Dollars per hour;

3. For transportation costs

The actual costs.

No payment will be made, however, until the third party satisfactorily complies with the summons and submits an itemized bill reflecting a specific accounting for the search, reproduction and transportation costs. The payment shall be made only to third parties and not to the taxpayer.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.