



A Practical Approach to Taking the “Gluten-Free Tax Deduction”

I have been writing about taxpayers’ ability to deduct the excess costs of following a gluten-free diet for almost 20 years, including two articles this year, which can be found at www.zinnerco.com (search the website for “gluten free”). Since the law surrounding one’s ability to deduct these costs has been well established – most recently in the IRS’s information letter 2011-0035 – this article will not discuss the applicable tax law but, rather, will focus on the practical aspects of taking the deduction.

The first step in taking the deduction is to determine your eligibility to take it. To be eligible, you must have a documented reason to require the observance of a gluten-free diet. Generally, the best documentation is a physician’s diagnosis of a medical condition that must be treated by following a gluten-free diet. While a diagnosis of celiac disease would certainly qualify you to take the deduction, there are other conditions that can also be treated by following a gluten-free diet. **A diagnosis of any of those conditions, along with a physician’s prescription to follow a gluten-free diet will provide sufficient documentation of eligibility.**

Before delving into the step-by-step process of taking

the deduction, it may be useful to outline the overall approach. The process will look something like this:

- Develop the overall system for tracking excess costs
 - Create a database of **non**-gluten-free foods, with costs,
 - Design a system for collecting and storing the receipts from shopping trips in which one purchases gluten-free foods,
 - Implement a system for capturing the required data from those receipts to track the deductible portion of those costs.
- Maintain the system to establish the amount of deductible costs
 - After each shopping trip, collect the receipt,
 - Record the required data from that receipt,
 - Store the receipt in an easily retrievable manner

Now that we see what the overall process looks like, let’s examine each of the above steps in detail and create a practical system one may follow.

DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE

I am responding to your inquiry to Commissioner Douglas H. Shulman dated February 25, 2011. You requested that we revise published guidance to taxpayers clarifying the tax treatment of special foods purchased to treat celiac disease.

Taxpayers can deduct expenses paid for medical care of the taxpayer, spouse, or dependent, to the extent the expenses exceed 7.5 percent of adjusted gross income. Section 213(a) of the Internal Revenue Code. Medical care refers to amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting a structure or function of the body. Section 213(d)(1)(A).

Therefore, if a taxpayer can establish the medical purpose of the diet, such as through a physician’s diagnosis, then to the extent the cost of the food for the special diet exceeds the cost of the food that satisfies a taxpayer’s normal nutritional needs if the special diet were not required, the excess cost is an expense for medical care under section 213(d).

We will consider modifying the language of Publication 502, Medical and Dental Expenses, to reflect these considerations.

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Develop the Overall System for Tracking Excess Costs

Develop a database of non-gluten-free foods, with costs

To know how much more you are spending on gluten-free food, you must know two things; the cost of the gluten-free food and the cost of the non-gluten-free versions of the same food. The first step, then, is to develop a database of the non-gluten-free versions of the foods you normally purchase. Sounds easy, but how do you actually do it?

The quickest way to begin the process is to find a ready-made database of food prices online. While it can take some time to find one, they do exist. One example is at <http://comparegroceryprices.org/>. Something to keep in mind is that this database, in particular, only compares prices at six national chains. While most readers will be able to find at least one of these chains in their location, some will not. Local price variances may occur that are not accounted for in a database such as this, nor will it compare prices at local non-chain stores. Finally, one has no way of knowing how frequently a database such as this is updated, so prices may be out of date without one knowing it.

The more tedious, but probably more accurate (and favorable) method would be to create your own database. This would entail creating a comprehensive list of the mainstream versions of the foods you purchase in gluten-free form, and tracking the prices of those items at your local stores.

It is easy to see why this method would be more accurate, but why would undertaking this task be more favorable? Building your own database gives you the opportunity to comparison shop locally and develop a database that includes the lowest available local prices for the mainstream products you are comparing. The lower the price of the mainstream products that are being used, the greater the cost differential as well as the potential tax deduction.

Develop a System for Collecting and Storing Receipts

Now that the database is built, it's time to go shopping. Before leaving, though, ask yourself what you are going to do with your grocery receipt when you return home? Other than recording certain information contained in that receipt, which I'll get to in a minute, you need a system for storing that receipt (along with all the others you will collect over a year) in a way that will allow you to easily retrieve it if you need to support your deduction in a tax examination. We're not talking a shoe box with loose receipts here, but, rather, a simple but organized system for collecting and maintaining these receipts.

There are many record-keeping systems available from a wide variety of sources, but one really doesn't need anything elaborate. An easy system might be to get twelve business-sized envelopes, label each with a different month of the year and collect them in a small box, labeled, "GF Food Receipts". You can even use a shoe box for this, if you wish – as long as you use the envelopes, too. After each shopping trip, you would put the receipt in the envelope that corresponds with the month in which the shopping trip occurred, and keep all the envelopes in the box. No single envelope will hold an excessive number of receipts so that if necessary, a particular receipt can be easily retrieved.

At the end of a year, put the twelve envelopes in one larger envelope, labeled, "GF Food Receipts – Tax Year 20XX". Then label twelve more envelopes for the next year and put them in the box.

Now let's backtrack and talk about how to collect and track the data from those receipts necessary to claim the deduction.

Develop a System for Capturing the Required Data from Those Receipts

The receipts, by themselves, don't do much good if there is no system in place to record and track the required information necessary to determine the amount of excess costs one may deduct. The system I am about to illustrate is fairly simple and straightforward, and, if maintained regularly, will not become a cumbersome part of your life that you come to dread. So, what does the system look like?

Essentially, we are going to create a spreadsheet that lists *each* gluten-free item purchased on *each* shopping trip you make during the year and compares its cost to the cost of a similar, mainstream product. Over the course of the year, your list will grow as you purchase more gluten-free food, and, at the end of the year, you will total up each of the columns that contain dollar amounts to arrive at the amount of your deduction. A simple example follows:

Date	Store	Food Item	GF price	Non-GF Price	Difference	Quantity	Total Difference (Quantity x Difference)
1/1/2012	Whole Foods	Whole Foods Bread	6.00	1.89	4.11	2	8.22
1/1/2012	Whole Foods	Gorilla Crunch Cereal	4.00	2.50	1.50	1	1.50
1/7/2012	Kroger	EnerG Bread	6.25	1.89	4.36	1	4.36
12/31/2012 Total							14.08

Note, the prices shown in this example are completely fabricated and bear no relationship to reality.

From this example, you can see that the process is not that difficult to undertake. Now, while you can certainly track your costs with pencil and paper, I would highly

recommend using an electronic spreadsheet, such as Microsoft Excel.

If you have a computer, but don't have Microsoft Excel or Office, don't despair. There are two very good open source (free) programs that offer almost as much functionality as Office, including a spreadsheet that looks very much like Excel and will even read and write Excel files. They are called OpenOffice and Libre Office. In fact, Libre Office was written by many of the same people who developed OpenOffice.

Where can you find them? OpenOffice can be found at www.openoffice.org/, and Libre Office can be found at www.libreoffice.org/download. It is well beyond the scope of this article to review the two programs but, having used OpenOffice myself, I can tell you that it will handle *this* task quite easily.

Maintain the System to Establish the Amount of Deductible Costs

Now that the system has been created and is ready to use, let's discuss the process of maintaining it in as pain-free a manner as possible.

After Each Shopping Trip, Collect the Receipt

Are you the type of person who doesn't save receipts? Take heart that you're not alone, but, if you want to establish a system that allows you to deduct the additional costs of following a gluten-free diet in a way that can be defended in an IRS audit, that is a habit that must stop **immediately**! For this system to be successful, you must diligently collect and save your receipts in an organized manner. I highly recommend the method I outlined above.

Record the Required Data from That Receipt

I strongly urge you to enter the information from your shopping receipt in the spreadsheet described above **as soon as you return home** from the store. There are two reasons for this.

First, it will minimize the number of times you have to handle the receipt. If you enter the information from that receipt immediately and put it into the envelope, you are done with that receipt (forever if you are never audited).

Second, this spreadsheet is much easier to maintain on

an enter-as-you-go basis than if you save it up for weeks, months, or, perish the thought, the whole year. In fact, I can guarantee that if you save your receipts for the year before entering them, you will give up in frustration. If that is your plan, please don't even start. You will regret it.

Store the Receipt in an Easily Retrievable Manner

One of the inevitable facts of one's tax life is the potential for a tax audit. I have represented many clients in tax audits over the years, and one constant that you can take to the bank is that those taxpayers who have well organized, complete, supporting documentation for the deductions claimed in their tax returns are far more likely to be successful in preserving those deductions as an outcome of that audit than those who do not. Therefore, I implore you to use the system described earlier in this article, or one similar to it, to store and organize your grocery receipts so you may preserve your tax deduction for observing a gluten-free diet.

A final word. Before you begin the task of creating this system or maintaining it, please make certain that your particular tax circumstances will allow you to enjoy the benefit of taking this deduction. I strongly urge you to read the articles mentioned in the first paragraph of this article as well as to consult with your own tax advisor. Consulting your tax advisor is something you should do before making **any** decision that may affect how you prepare or file your tax return. If you follow that advice alone, this will have been a worthwhile use of your time.

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Go to the Member page on the CSA website, www.csaceliacs.org, to download the gluten-free food costs worksheet.

How much does my gluten-free food choices cost?

Date	Gluten-free item	Purchase Price	Comparable Product Price	\$ Difference	% Difference	Receipt	Notes
1/1/2009	Bread Example	4.95	2.35	2.6	52.53%	x	
TOTAL	Does not include example			0			