



Travel Expense Reimbursements

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Key Concepts to Determine if Excludable:

- Tax home
- The definition of “away from home”
(overnight/sleep or rest rules)
- Temporary vs. indefinite travel
assignments
- Substantiation: Accountable Plan Rules
- Reimbursements for travel expenses
- *-IRC §162(a)(2)*



Travel Expense Reimbursements include:

- Costs to travel to and from the business destination
- Transportation costs while at the business destination
- Lodging, meals and incidental expenses
- Cleaning, laundry and other miscellaneous expenses



TAX HOME:

- One Regular or Main Place
 - More Than One Regular or Main Place
 - No Regular or Principal Place
- Rev. Rul. 73-529;*
- Rev. Rul. 93-86*



Tax Home: Regular Place of Business

- Includes general vicinity or area
- In most cases, employer's office is tax home



Tax Home:

IF More Than One Regular
or Main Place of Business

Determine at each location :

- Time worked
- Degree of business activity, and
- Income earned



Tax Home:

No Regular or Principal Place of
Business

- Personal Residence

-Rev. Rul. 73-529; Rev. Rul. 93-86



Tax Home:

Legislators may elect tax home

*-IRC §162(h)(1)(B); TD 9481; TAM
9127009; Prop Reg 1.162-24*



“Away From Tax Home”

- Employee must stay overnight or
- Travel longer than an ordinary workday and stop for substantial sleep or rest



“Sleep or Rest” Rule

Court Cases Define “Sleep or Rest”:

- No set distance or hours traveled
- Sleeping or resting in car doesn’t qualify
- Usually applies to transportation workers

—U.S. v Correll, 389 U.S. 299,302-303 (1967); Rev. Rul. 75-170;
Rev. Rul. 75-432



Sleep/Rest Test Not Met - Taxable

U.S. v Correll, 389 U.S. 299, 302-303(1967)

Barry v. Commissioner, 27 AFTR 2d 71-334, 435
F2d 1290(CA1 1970)

Coombs v. Commissioner, 608 F2d 1269,
1276(1979)

Fife v. Commissioner, 73 T.C. 621(1980)

Rev. Rul. 68-663, 1968-2 C.B. 71

Matteson v. Commissioner, T.C. Memo 1974-96

Unger v. Commissioner, T.C. Memo 1986-64, 51
TCM 455



Sleep/Rest Test Met –Not Taxable

Williams v. Patterson, 286 F.2d 333 (5th Cir. 1961)

Rev. Rul. 75-170, 1975-1 CB 60

Anderson, David, (1952) 18 TC 649

Weaver, Don, (1953) PH TCM 54001, 12 CCH TCM 1421

Rev. Rul. 75-168, 1975-1 CB 58

Johnson, Mose, (1982) TC Memo 1982-2

Rev. Rul. 75-432, 1975-2 CB 60

Siragusa v. Commissioner, T.C. Memo 1980-68



TEMPORARY VS. INDEFINITE ASSIGNMENTS

- Temporary Assignments -
Non-Taxable = Less Than 1 Year
- Indefinite Assignments -
Taxable = Longer than 1 year:

Rev. Rul. 93-86; Rev. Rul. 99-7



Temporary vs. Indefinite Assignments

Temporary or Indefinite?

- Employer must make decision on length of assignment when the assignment begins



Temporary Assignment:

Duration At Single Location

- Expected to Last and Actually Lasts
Less than 1 Year



Indefinite Assignment:

Duration at Single Location:

- Expected to last longer than 1 Year
- Actually Lasts longer than 1 Year



SUBSTANTIATION: ACCOUNTABLE PLAN RULES:

- Business connection
- Documentation and
- Timely return of excess reimbursements.



Accountable Plan

An accountable plan may include a per diem allowance method.

Rev. Proc. 2005-67; Reg. §1.274-5(j)(1)



REIMBURSEMENTS FOR TRAVEL EXPENSES

- Ordinary and necessary business expenses
- Incurred while traveling away from the employee's home overnight
- Are excludable from taxable wages, if: reimbursements made under an accountable plan



Per Diem Method of Reimbursement

- Deemed substantiated without receipts
- Requirements of the regulations must be met



Maximum Amounts for Per Diem Allowances

- Use Federal per diem rates
- Rates are revised each year, and are available on-line as IRS Publication 1542

Revenue Procedure 2011-47 and Notice 2011-81
for special rules



Per Diem Rates

- Employers may use lower per diem rates than the Federal rates
- Accountable plan rules apply
- If a rate higher than the Federal rate is used, the excess is taxable



Per Diem Allowance

Three conditions must be met for the payments to be excludable:

- Same or less than Federal rates
- No receipts are required if a per diem allowance used, but meet the other substantiation requirements including time (date), place, and business purpose.
- substantiation requirements meet the Federal requirements



Reimbursement or Per Diem Paid Under a Nonaccountable Plan?

- Per diem payments under a non-accountable plan = wages
- Subject to Federal income tax, and employer and employee social security and Medicare taxes
- Included in wages in boxes 1, 3, and 5 on Form W-2



Transportation Expenses

Costs for *local* business travel that is:

- not away from the tax home area overnight, and
- in the general vicinity of the principal place of business.
- Excludable if accountable plan



Reimbursements for Transportation Expenses

Excludable from income if they are provided for:

Daily transportation Between:

- one work location and another
- the employee's residence and a temporary work location outside the metropolitan area where the employee generally works.
- the employee's residence and a temporary work location in the same business (regardless of distance) if the employee has a regular work location away from the residence.
- the employee's residence and another work location in the same business, if the residence is the employee's principal place of business.

If none of these situations apply, the transportation expenses are commuting and are taxable if reimbursed

Rev Rul. 99-7.



Commuting Costs

- Travel between employee home and main place of work
- Not deductible expenses and
- Cannot be excluded from wages.



Transportation Expenses: Temporary or Indefinite Assignments

- For temporary assignments in the general area of the tax home
generally not taxable
- For indefinite assignment
generally are taxable

ILM 199948019; Rev. Rul. 99-7



Temporary Transportation Expenses

To exclude transportation expenses under a temporary assignment:

- expected to last, and actually does last, one year or less
- Away from the main place of work
- Not for commuting



"Temporary" Transportation Assignment Becomes "Indefinite"

- If determined to be temporary at time assignment begins, considered temporary until the date the expectations change
- At that time, the transportation is considered "indefinite" and
- Any reimbursements from this date are taxable



Substantiation Required for Transportation Expense Reimbursement to be Excluded from Wages

Must prove:

- Amount, date and time, place and business purpose of expenses, and
- Keep contemporaneous records such as receipts
- No accountable plan-- taxable



Thank you!

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