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IRS Liberalizes Position on Local Lodging

In the past, a [business deduction](#) was allowed only for lodging when a taxpayer traveled away from his or her "tax home." A taxpayer's tax home is generally the location (such as city or metropolitan area) of a taxpayer's main place of business (not necessarily the place where he/she lives).

This has long created problems for individuals attending conferences and training sessions within their tax homes that include extended-hour events that preclude traveling back home between days of the events. In 2007, the IRS announced that it would amend the regulations to allow certain temporary local lodging expenses to be treated as business expenses; now, five years later, the proposed regulation changes have recently been announced.

Proposed Changes - The IRS has issued proposed reliance regulations permitting certain non-away-from-home lodging expenses to be treated as deductible business expenses by employers and tax-free working condition fringe benefits or accountable-plan reimbursements to employees. The proposed regulations provide a safe harbor; local lodging expenses are treated as ordinary and necessary business expenses if all of these conditions are met:

- (1) The lodging is necessary for the individual to participate fully in or be available for a bona fide business meeting, conference, training activity, or other business function.
- (2) The lodging is for a period that does not exceed five calendar days and does not recur more frequently than once per calendar quarter.
- (3) If the individual is an employee, his or her employer requires him or her to remain at the activity or function overnight.
- (4) The lodging is not lavish or extravagant under the circumstances and does not provide any significant element of personal pleasure, recreation, or benefit.

Example: A business conducts business-related sales training sessions at a hotel and conference center near its main office. The employer requires both its field and in-house sales force to attend the training and stay at the hotel overnight for the bona fide purpose of facilitating the training. If the company pays the lodging costs directly to the hotel, the stay is a working condition fringe benefit to all attendees (even to employees who live in the area who are not on travel status) and the company may deduct the cost as an ordinary and necessary business expense. If the employees pay for the lodging costs and are reimbursed by the company, the reimbursement is of the accountable plan variety and is tax-free to the employees and deductible by the company as an ordinary and necessary business expense.

Example: If a locally-based self-employed consultant were required by a company to attend the sessions and stay at the hotel, he or she could deduct the expense if he or she paid for it himself or herself or exclude the expense if he or she were reimbursed by the company after accounting for it in full for his or her costs.

The new rules apply to expenses paid in prior years in cases in which the statute of limitations for claiming refunds is still open (generally, after 2008). Thus, returns can be amended for refund where a lodging deduction would have been allowed.

If you have questions related to how this change affects prior filed returns or how it will affect your business deductions going forward, please give this office a call.

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