

Travel and Transportation Expenses

Reimbursements received by an employee who travels on business outside of the area of his/her tax home may be excludable from wages. In order to determine whether a reimbursement is excludable, you must first understand key travel definitions. This section discusses:

- Travel expenses
- Tax home
- The definition of “away from home”: overnight/sleep or rest rules
- Substantiation methods *IRC §162(a)*

Travel Expenses

Qualifying expenses for travel are excludable if they are incurred for temporary travel on business away from the general area of the employee’s tax home. In order to be excludable as reimbursements, the travel must be temporary and be substantially longer than an ordinary day's work, requiring an overnight stay or substantial sleep or rest. *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

As stated earlier, there are no tax consequences if the accountable plan rules are met.

Example: An employee works for an agency in Detroit, and travels to Denver to conduct business for an entire week. The employee incurs the cost of transportation to and from Denver, as well as lodging and meals while there.

Since the employee is traveling away from his/her tax home on the employer's business for substantially longer than a day, the employee would be considered in travel status.

Reimbursement for substantiated travel expenses incurred by the employee are considered an excludable travel expense.

Away From Tax Home

In order for a reimbursement of an expense for business travel to be excludable from income, including meals and lodging, a taxpayer must travel "away from home" in the pursuit of business on a temporary basis.

The statutory phrase "away from home" has been interpreted by the U.S. Supreme Court to require a taxpayer to travel overnight, or long enough to require substantial "sleep or rest" (*U.S. v Correll, 389 U.S. 299, 302-303 (1967)*).



Thus, merely working overtime or at a great distance from the taxpayer's residence does not create excludable reimbursements for travel expenses if the taxpayer returns home without spending the night or stopping for substantial "sleep or rest". *Rev. Rul. 75-170; Rev. Rul. 75-432*

See Meal Allowances handout for further discussion of the "sleep or rest rule."

Questions concerning the "sleep or rest" rule have been addressed in numerous court cases over the years. Some of the major cases are listed below, and some of them are briefly discussed afterward.

Sleep/Rest Not Met - Reimbursements 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 Met - Reimbursements 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
L-1711 - Fed Tax Coor.
Siragusa v. Commissioner, T.C. Memo 1980-68

Court Case 1: Williams v. Patterson

A railroad conductor regularly rents a hotel room near railroad station where he sleeps and eats during a 5-hour layover during an 18-hour workday. He may deduct his meal and lodging costs because his layover is long enough to obtain sleep or rest and is required by his job to do so.

Court Case 2: Barry v. Commissioner

A consulting engineer works with clients in a three-state area by making one-day trips to each client. She frequently leaves home at 6:30 a.m. and does not return until midnight. During the day, she stops in a rest area and closes her eyes for 20 minutes to refresh herself for the drive. She cannot deduct the cost of her meals on these trips because she is not away from home long enough to obtain substantial sleep or rest.



Court Case 3: Unger v. Commissioner

A truck driver's "safety breaks" which consisted of resting or sleeping at the wheel of the truck for periods ranging from 45 minutes to three and one-half hours, were considered by the courts to be a mere pause from his daily work routine and consequently did not constitute a substantial amount of sleep or rest. Therefore, the truck driver was not considered to be away from home.

Example: An employee is required to travel from Milwaukee to Madison to work on a project. She leaves home at 11:00 a.m. on Monday, with plans to return home the same day. She is unable to complete the project on Monday, so she spends the night in Madison. After completing the project the next day, she returns to Milwaukee by 10:30 a.m. Even though the employee had not planned to spend the night and is gone for less than 24 hours she has met the "away from home" rule because she spent the night away from her tax home on business.

Example: An employee is required to travel from Dallas to Houston to work for the day. The employee leaves home at 6:30 A.M. and returns that night at 10:00 P.M. On the trip home the employee stops for dinner and rests in the car for two hours. Even though the employee has been away from home for substantially longer than his/her normal work day, the employee is not considered to be in travel status. Courts have ruled that stopping for a meal or a rest in a car does not meet the substantial "sleep or rest" rule.

Example: A government agency supplies office equipment to all agencies within the state. An employee drives a tractor-trailer with equipment from the warehouse in Sacramento to an agency in San Diego. After 10 hours the driver stops and rents a room at a rest stop for a 4 hour nap before completing the round trip. Since the driver rented a room in order to sleep, he/she is considered to have met the "sleep and rest" rule. Reimbursements for meals and lodging are not taxable to the employee.

Transportation Expenses

Transportation expenses are costs for local business travel that is *not* away from the tax home area overnight and is in the general vicinity of the principal place of business. Transportation expenses must be distinguished from commuting costs, which are not excludable from employee income. Travel expenses are expenses for travel away from your tax home overnight. *IRC 162(a)(2); IRC 62(a)(2)(A); IRC 62(c); Rev Rul. 99-7*

Reimbursements of expenses for local transportation for “temporary” assignments are generally not taxable to the employee.

Transportation expenses may include:

- Air, train, bus, shuttle and taxi fares in area of tax-home
- Mileage expenses or costs of operating a vehicle
- Tolls and parking fees

Transportation expenses do not include:

- Meal and lodging costs
- Commuting to regular or principal place of business

Substantiation Methods – Transportation Expenses

Transportation expenses are subject to the same accountable plan rules for travel expenses, discussed above. They are fully excludable when paid under an accountable plan. The following requirements must be met:

- Business connection
- Substantiation
- Excess returned within a reasonable time *Reg. §1.62-2(c); Reg. §1.274-5T(b)(2)*

To be excludable as transportation expenses, the same tests that are applicable to travel away from home must be met:

- Payments must be made under an accountable plan
- Employee must prove amount, date and time, place and business purpose of expenses
- Employee must keep contemporaneous records such as receipts
- Expenses must not be lavish, but reasonable based on circumstances
- No excludable meal reimbursements can be made unless the employee is away from home overnight. *Reg 1.62-2; 1.274-5T(b)(2)*