

Abstract: Despite the prevalence of Web-based meetings, many of today's businesses still have plenty of employees who travel. For companies that reimburse employees on a tax-free basis for travel expenses, it's important to stay up to date on the rules that determine the location of a person's tax home. This article discusses the IRS's three-factor test to determine whether an employee with no principal workplace has a tax home or is an itinerant.

Determining an employee's "home" for reimbursement purposes

Despite the prevalence of Web-based meetings, many of today's businesses still have plenty of employees who travel. If you still have sales staff or other workers out on the road, and you're reimbursing them on a tax-free basis for their travel expenses, it's important for you as the employer to stay up to date on the rules that determine the location of a person's tax home.

Principal workplace

Internal Revenue Code Section 162 imposes three requirements for travel expense deductions: 1) The expenses must be ordinary and necessary, 2) they must be incurred while traveling away from the individual's tax home, and 3) they must be incurred in pursuit of business.

An employee's "tax home" is generally determined by where he or she works, not by where the employee lives. A tax home isn't limited to one building or property; it includes the entire city or area in which the tax home is located. For employees with one regular workplace, their tax home is that workplace. If an employee has more than one regular workplace, his or her tax home is the employee's principal workplace.

If an employee has no principal workplace, his or her tax home is the employee's "regular place of abode in a real and substantial sense." Those who have no principal workplace and no regular abode are considered "itinerants," and their tax home is wherever they work. Itinerants can never get a travel expense deduction or qualify for tax-free reimbursement of their travel expenses because they'll never be "away from home."

Three-factor test

The IRS uses a three-factor test to determine whether an employee with no principal workplace has a tax home or is itinerant. The three factors involve whether the employee:

1. Performs a portion of his or her work near the claimed abode and uses that abode for lodging purposes when working there,
2. Must leave the abode to perform his or her job, which duplicates the employee's living expenses incurred at the abode, and
3. Hasn't abandoned the vicinity of his or her historical place of lodging and the abode; has marital or lineal family members currently residing at the abode; or uses the abode frequently for lodging.

If all three factors are satisfied, the individual's abode is the tax home. If only two are satisfied, the answer will depend on the facts and circumstances, so you may need to consult with your tax advisors. If only one factor is satisfied, the employee is an itinerant.

The actual or expected length of an employee's assignment to another location may affect whether the expenses are treated as incurred while "away from home." Assignments of indefinite duration can change a taxpayer's tax home, but temporary assignments won't if the assignment is realistically expected to last, and in fact lasts, for one year or less.

Importance of substantiation

Finally, keep in mind that travel expenses generally must be substantiated with information about the amount, time, place and business purpose of each expense. Our firm can help you determine your employees' respective tax homes and follow the rules.

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