

# CLIENT REPORT

## Re: Business Trips That Mix Business with Pleasure

Despite better communications by teleconferencing, faxes and the Internet, business travel has increased dramatically over the past several years. In addition, many taxpayers are beginning to plan trips that combine elements of both business and pleasure. Business trips, conventions, and continuing education seminars in exotic locations can yield great personal pleasure and at the same time generate legitimate deductions. Although the basic rules are relatively simple, there are a number of angles in this area that should interest you.

**Business Travel - The Rules.** Taxpayers who travel away from their tax home on business are permitted to deduct travel expenses, including fares, meals, lodging, and incidental expenses, if they are not otherwise lavish or extravagant. A business trip is "away from home" if it takes enough time that the taxpayer may be reasonably expected to need sleep or rest. A taxpayer's tax home is his regular or principal place of business, or his regular abode if he has no regular or principal place of business. You are not prohibited from enjoying non-business or personal activities while on a business trip, but the primary reason for the trip must be related to your trade or business.

**Foreign Travel.** Foreign travel expenses are subject to some limitations that do not apply if the business trip is within the United States. Some of an individual's foreign travel expenses may not be deductible if he or she takes part in substantial non-business activity during the trip. Taxpayers who travel outside the U.S. for longer than one week or spend less than 75 percent of their time on business are subject to allocation rules, which operate to partially disallow their expenses, unless they had no control over the trip arrangements or the vacation portion was not a major consideration of making the trip. The general rule is to allocate expenses, including meals and lodging, between business and non-business on a day-to-day basis. Each day is either entirely for business, or it is considered to be a non-business day. A day counts as entirely for business if the taxpayer's principal activity on such day was the pursuit of a trade or business. In addition, a day is counted as a business day if any of the following factors are present:

- The individual was traveling to or from an overseas destination in pursuit of a trade or business.
- The individual's presence outside the U.S. on that day was required at a particular place for a specific and bona fide business purpose.
- The individual was prevented on that day from engaging in the conduct of his or her principal business activity due to circumstances beyond his control.
- The day was a Saturday, Sunday, legal holiday or other reasonably necessary stand-by day, which intervened during the course of the taxpayer's trade or business.

**Educational Travel.** The tax law expressly prohibits deducting expenses for travel as a form of education. Nevertheless, a recent Tax Court case allowed a schoolteacher to deduct her travel and tuition costs related to two university courses overseas. The court found that the educational

activities engaged in by the taxpayer went beyond mere travel and helped her maintain and improve skills necessary to her employment. The courses were well-organized and conducted with regular lectures, extensive assignments, and left her with little free time for personal pleasure. The taxpayer was able to show that the knowledge she gained helped her to develop curriculum materials for the courses she taught. Whether this "business need" may be extended to other professions or businesses remains to be seen as this case law develops.

**Conventions and Seminars.** Expenses for both self-employed persons and employees to attend a convention in the U.S. may be deductible if there is a sufficient relationship to the taxpayer's trade or business. However, a special rule prohibits the deduction of any costs of attending conventions or seminars for investment purposes.

*Cruise ships.* A limited deduction (to a maximum of \$2,000 annually) is permitted for conventions on cruise ships if the ship is of U.S. registry, all ports of call are in the U.S. or its possessions, and the meeting is directly related to the taxpayer's trade or business. Rigorous reporting requirements must be satisfied, including written statements by both the attendee and an officer of the sponsoring organization.

*Foreign conventions.* Under the tax law, a foreign convention is considered one held outside the U.S., its possessions, the Trust Territory of the Pacific Islands, Canada, or Mexico. The deductibility of expenses for foreign conventions is subject to a higher standard than for conventions held in the U.S. The taxpayer must establish that the meeting is directly related to the active conduct of his trade or business and that it is as reasonable to be held outside the North American area as within it. For a stateside convention, the taxpayer merely has to show that his business duties and responsibilities are related to the agenda of the meeting even though it may not deal with the specific duties of the taxpayer's work.

**Staying Over.** Due to airline pricing policies, it is sometimes economical for a business traveler to stay over Saturday night although business concluded on Friday. The additional lodging expense may be more than offset by the lower airfare as a result of the Friday and/or Saturday night stay-over. In such situations, the additional meals and lodging expenses for the Friday/Saturday mini-vacation may be written off entirely as part of the deductible as ordinary and necessary expenses of the trip.

If, on a business trip during the week, a certain day is devoted primarily to pleasure, that day's expenses are not deductible. Although this may be a nondeductible expense that the business traveler is willing to pay, take care not to devote over half of the time you spend away from home on pleasure. In such a case, none of the transportation expenses involved in getting to and from the location are deductible. On the other hand, if more than half of the trip is devoted to business, all of the transportation expenses may be written off as a business expense.

If you have any questions about how the travel rules would apply to any business trip that you anticipate taking soon, please do not hesitate to call.

Sincerely yours,

(Reproduced with permission from CCH's Client Letter, published and copyrighted by CCH Incorporated, 2700 Lake Cook Road, Riverwoods, IL 60015.