

INTERNAL REVENUE SERVICE  
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June 12, 2000  
The Honorable Slade Gorton  
United States Senate  
Washington, D.C. 20510

Attention: Tara Ord

Dear Senator Gorton:

This letter is in response to your inquiry dated May 3, 2000, on behalf of your constituent, [REDACTED]. In an e-mail message (copy enclosed) [REDACTED] states that as a federal government employee working overseas, he has submitted travel claims to his employer for reimbursable travel and household goods movement expenses. Some of the monies paid to (or on behalf of) [REDACTED] were included in his gross income and reported to him on a Form W-2. [REDACTED] expressed concern about the federal income tax treatment of these payments, stating that he does not consider them to be income.

Only qualified moving expense reimbursements can be excluded from income. Any additional employee reimbursements are compensation for services (i.e., wages reportable on a Form W-2).

**Compensation for Services: Internal Revenue Code (Code) §§ 61 and 82.**

Section 61(a)(1) of the Code defines gross income as all income from whatever source derived, including compensation for services. Section 82 provides that gross income (as compensation for services) includes any amount received or accrued, directly or indirectly, by an individual as a payment for, or reimbursement of, expenses of moving from one residence to another if the payment is attributable to employment or self-employment. However, two other Code provisions, § 132 which provides for an exclusion from gross income and § 217 which provides for a deduction from gross income, operate to lessen the impact of §§ 61 and 82.

**Qualified Moving Expense Reimbursements: Code §§ 132 and 217.**

Section 132 provides that gross income shall not include any fringe benefit that is a qualified moving expense reimbursement. A qualified moving expense reimbursement

is any amount received, directly or indirectly, by an individual from an employer as a payment for, or a reimbursement of, expenses that would be deductible as moving expenses under § 217 if directly paid or incurred by the individual.

In general, § 217(b)(1) defines moving expenses as the reasonable expenses of:

- (A) moving household goods and personal effects from the former residence to the new residence; and
- (B) traveling (including lodging, but not meals) from the former residence to the new place of residence.

### **1993 Congressional Changes to Code §§ 132 and 217.**

██████████ states that the IRS decided in 1993 that travel funds should be treated as income. In 1993, Congress made major changes to §§ 132 and 217, effective for moving expenses incurred after December 31, 1993, by enacting § 13213 of the Omnibus Budget Reconciliation Act, (OBRA 1993), 1993-3 C.B. 3, 61. The Congress explained that, in the interests of appropriate tax treatment and restoring some fairness to the tax system, OBRA 1993 imposed new limitations on the expenses that qualify as deductible moving expenses. See, H.R. Rep. No. 103-111, 103d Cong., 1st Sess. (1993), 1993-3 C.B. 167, 227-8; and H.R. Conf. Rep. No. 103-213, 103d Cong., 1st Sess. (1993), 1993-3 C.B. 393, 468-70.

Prior to OBRA 1993, deductible moving expenses also included:

- (A) traveling expenses (including meals and lodging) to the new work location for the purpose of searching for a new residence;
- (B) expenses of meals and lodging at the new work location for up to 30 days (90 days for a foreign move); and
- (C) certain costs related to the sale of (or settlement of an unexpired lease on) the old residence, and the purchase of (or acquisition of a lease on) the new residence.

### **Explanation of RITA.**

██████████ also stated that he has been turning in claims under "RITA". Occasionally, the federal government makes payments for travel and transportation expenses and includes the payments in an employee's gross income because the payments are not qualified moving expense reimbursements (as discussed above). In that event, payment of a relocation income tax allowance (RITA) is authorized under 5 U.S.C. § 5724b. The RITA payment reimburses the eligible transferred employee for

substantially all of the additional Federal, State, and local income taxes incurred by the employee (or by the employee and spouse, if a joint return is filed) as a result of the payment (or reimbursement) of the non-qualified moving expenses.

I hope this information is helpful. Please call A. Katharine J. Kiss, Identification Number 50-03990, at (202) 622-4920, if you have any additional questions.

Sincerely,

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Lewis J. Fernandez  
Deputy Assistant Chief Counsel  
(Income Tax & Accounting)

Enclosure