

INTERNAL REVENUE SERVICE

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Dear [REDACTED]:

This letter is in response to your inquiry dated July 21, 2003, regarding the tax treatment of reimbursements received by [REDACTED] for transportation and meal expenses. You forwarded an email from [REDACTED], in which he reports, after discussing the issue with the IRS field office and with several tax accountants, that in certain cases these reimbursements should be treated as taxable wages. I hope the following general discussion of the applicable law is helpful.

Expense reimbursements paid by employers to employees generally are wages subject to income tax and employment taxes unless the expenses are **deductible** business expenses reimbursed under an accountable plan. Generally an employee's transportation expenses incurred in going between the residence and a place of business, and an employee's meal expenses, are considered nondeductible personal expenses; therefore, the reimbursements for these expenses are taxable wages. In certain limited situations, however, transportation expenses and meal expenses are considered deductible business expenses.

With regard to transportation expenses, Rev. Rul. 99-7, 1999-1 C.B. 361, provides the rules for determining whether expenses incurred on trips between an employee's residence and a work location are deductible business expenses or nondeductible commuting expenses. For an employee with one or more regular workplaces away from the residence, transportation expenses incurred in going between the residence and a workplace for the employer are deductible business expenses only if:

- The employee's residence is his or her principal place of business (within the meaning of the home office rules) in that trade or business, or
- The workplace is a **temporary** work location in that trade or business.

The correspondence you sent us does not indicate that either of these exceptions apply. The fact that an employer requires the employee to live in the vicinity of the

regular work location has no bearing on these rules. In fact, this requirement corresponds to the assumption in tax law that taxpayers live near their workplace; an employee's decision to live at a distance from the workplace is a personal, rather than a business, decision. The residency requirement does not burden the employee with a longer commute than the employee would have absent such a requirement.

With regard to meal expenses, the U.S. Supreme Court, in *United States v. Correll*, 389 U.S. 299 (1967), accepted the longstanding IRS practice of treating travel expenses (including meal expenses) as deductible business expenses only if paid or incurred while "away from home" on a business trip that requires an overnight stay. Accordingly, meal expenses incurred on "day trips" are generally considered to be personal living expenses rather than deductible business expenses, and the reimbursements for these expenses are taxable wages.

I hope this information is helpful. Please call me on [REDACTED] if you have any questions.

Sincerely,

Robert M. Brown
Associate Chief Counsel
(Income Tax & Accounting)