

Internal Revenue Service

Department of the Treasury

Number: **INFO 2004-0185**

Release Date: 12/31/04

Index Numbers: 162.12-00, 162.12-06

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply to:

CC:ITA:2 – GENIN-123033-04

Date:

October 13, 2004

Dear

This responds to your email dated March 2, 2004.

In your email, you ask about the deductibility of expenses incurred by a pilot to be trained as a Federal flight deck officer. By way of background, you say that the Armed Pilots Against Terrorism Act includes a provision that airline pilots may voluntarily be trained as Federal flight deck officers. Pilots who attend this training are not paid by their employers for this training and are not reimbursed for their expenses.

Section 162(a) of the Internal Revenue Code allows as a deduction all the ordinary and necessary expenses paid or incurred during a taxable year in carrying on any trade or business.

Section 1.162-5 of the income tax regulations states the requirements for education expenses of an employee to be deductible. A first test is that the education must either maintain or improve skills needed in the employee's present work or be required by the taxpayer's employer or by the law to keep the employee's present salary, status, or job.

Even if the education meets either of the two requirements of the first test, work-related education does not qualify if it is needed to meet the minimum educational requirements of the taxpayer's trade or business or if it is part of a program of study that will qualify the taxpayer for a new trade or business.

If education meets the requirements to be deductible, expenses that may be deductible include, among others, tuition, books, supplies, and transportation and travel costs.

Expenses for travel, meals (with a 50% limit), and lodging are deductible if the taxpayer travels overnight to obtain the education and the main purpose of the trip is to attend a work-related course. If the travel away from home is mainly personal, the taxpayer cannot deduct all of the expenses for travel, meals, and lodging. In such a situation, the taxpayer can only deduct expenses for meals and lodging during the time that the employee attends the qualified education. Whether the purpose of a trip is mainly personal or mainly educational depends upon the facts and circumstances.

You also asked about the loss of income due to attending training. Although there is not a deduction for not earning expected income, if a taxpayer's employer does not pay the taxpayer for all or part of time spent attending the training, an appropriate reduction will be made in the amount of compensation income that the taxpayer reports on his or her income tax return. Thus the taxpayer will not be taxed on the amount that the taxpayer did not earn. This has been the position of many court decisions over the years, such as the case of Hort v. Commissioner, 313 U.S. 28 (1941), in which the United States Supreme Court said, referring to a transaction which resulted in the taxpayer receiving less income than previously expected, that "[u]ndoubtedly it diminished the amount of gross income petitioner expected to realize, but to that extent he was relieved of the duty to pay income tax."

For your reference, we are enclosing Publication 970, "Tax Benefits for Education." The relevant information begins on page 53 of the publication. We are also enclosing Revenue Procedure 2004-1, which discusses how to obtain a ruling from the Internal Revenue Service.

We hope that this general information is helpful to you. If you have any additional questions, please contact

Sincerely,

THOMAS D. MOFFITT
Chief, Branch 2
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosures
Pub. 970
Rev. Proc. 2004-1