



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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Dear _____ :

This letter responds to your request for information dated June 01, 2009. You asked if mileage reimbursements paid to _____ for attending _____ meetings must be included in the supervisors' income.

Your letter states that _____ reimburses county employees, including _____, for business related mileage pursuant to an accountable plan. The county does not reimburse employees for commuting mileage between their home and county business locations. The only _____ with an office in county facilities is the _____.

If an employer reimburses an employee for a business expense under an accountable plan, the reimbursement is excluded from the employee's gross income. Section 1.62-2(c)(4) of the Income Tax Regulations. Reimbursements are treated as paid under an accountable plan if (1) the reimbursements are for deductible business expenses that the employee pays or incurs while performing services for the employer (business connection), (2) the employee timely substantiates the business expenses to the employer (substantiation), and (3) the employee returns to the employer any amount in excess of the substantiated business expenses (return of excess). Section 1.62-2(c)(2).

Generally, daily transportation expenses incurred in going between a taxpayer's home and a work location cannot be reimbursed under an accountable plan because they are personal commuting expenses, not deductible business expenses, and therefore they do not meet the business connection requirement. Sections 1.162-2(e) and 1.262-1(b)(5). However, there are some situations in which daily transportation expenses may be deductible and therefore may be reimbursed under an accountable plan. For example, a taxpayer may be entitled to deduct daily transportation expenses incurred in going between the taxpayer's home and a *temporary* work location if the taxpayer has a regular work location for the same employment. See Rev. Rul. 99-7, 1999-1 C.B. 361. A temporary work location is a work location where employment is realistically expected to last (and does in fact last) for 1 year or less unless there are facts and circumstances

indicating otherwise. A taxpayer also may be entitled to deduct daily transportation expenses incurred in getting from one workplace to another if the taxpayer works at two work locations in one day, whether or not for the same employer. If the taxpayer travels from one work location to his or her residence, and then travels to the second work location, the taxpayer may only deduct the cost of traveling directly between the work locations. See Rev. Rul. 55-109, 1955-1 C.B. 261. For more information on deductible transportation expenses, see Publication 463, Travel, Entertainment, Gift, and Car Expenses, available at www.irs.gov.

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2009-1, § 2.04, 2009-1 I.R.B. 1. If you have any additional questions, please contact _____ at _____.

Sincerely,

THOMAS D. MOFFITT
Branch Chief
(Income Tax & Accounting)