



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Lamar Alexander
United States Senator
800 Market Street, Suite 112
Knoxville, TN 37902

Attention:

Dear Senator Alexander:

This letter responds to your inquiry dated March 8, 2011, on behalf of your constituent, . . . asked about the one-year limitation on deducting business travel expenses.

A taxpayer who is temporarily away from home in pursuit of a trade or business may deduct all ordinary and necessary business expenses the taxpayer pays or incurs while traveling, including expenses for meals and lodging (section 162(a)(2) of the Internal Revenue Code (the Code)). This provision is an exception to the general rule that taxpayers may not deduct personal, living, or family expenses (section 262(a) of the Code).

In general, a taxpayer's home for tax purposes is the location of the taxpayer's principal place of business, or where the taxpayer normally works. If a taxpayer secures employment permanently or for an indefinite period of time in a new location, the new location becomes the taxpayer's tax home. The taxpayer's expenses of living at the new location are nondeductible personal expenses, rather than deductible business expenses.

However, if a taxpayer secures only temporary employment in a new location, the taxpayer does not change tax homes. The taxpayer is treated as traveling away from his or her tax home for business purposes, and the taxpayer may deduct expenses for

meals and lodging at the temporary work site as business expenses under section 162(a)(2) of the Code.

Therefore, if a taxpayer secures employment in a new location, the taxpayer must determine whether he or she has changed tax homes. As _____ notes in his letter, section 162(a) of the Code provides that a taxpayer who travels to a single location to work for more than one year is not temporarily away from home and cannot deduct travel expenses. The Congress added this one-year rule to section 162(a) of the Code in 1992 (section 1938 of the Energy Policy Act of 1992, Public Law Number 102-486). The Internal Revenue Service lacks the authority to modify the statutory rule administratively.

I hope this information is helpful. If you have any questions, please contact me or _____, at _____.

Sincerely,

George J. Blaine
Associate Chief Counsel
(Income Tax & Accounting)