

Tax Home for Business Purposes

Cross References

- T.C. Memo. 2022-8, *Harwood*, February 15, 2022

Travel expenses are deductible when a taxpayer travels away from his or her tax home for business. A recent court case illustrates that there must be a business purpose for the location of a tax home.

Author's Comment

While this case involves an employee deducting unreimbursed employee business expenses, which are temporarily nondeductible under the Tax Cuts and Jobs Act (TCJA), the same rules apply for the travel expenses of a self-employed individual.

The taxpayer worked as a steamfitter and brazier on construction projects in Washington and Oregon. He was a member of the Plumber and Steamfitters local union. He lived in Yakima, Washington, which is located within his union's territory. He obtained multiple temporary jobs for various employers through his union.

The taxpayer was a native of Yakima, loved his hometown, and took great pride in raising a family there with his wife. His job often required that he leave for significant chunks of time, but he made a concerted effort to spend weekends at home in Yakima even while on the job. He believed that his family and his economic prospects would both suffer were he to move his home whenever his work location shifted.

The taxpayer worked for five separate employers during the years at issue, with intermittent periods of unemployment between projects. When beginning a new job, the taxpayer did not know how long the project might last. Each of these jobs lasted for less than one year, which is generally the standard for considering that a job location is temporary.

To deduct reasonable and necessary travel expenses, a taxpayer must show that he was away from home when he incurred the expense, that the expense is reasonable and necessary, and that the expense was incurred in pursuit of a trade or business.

A taxpayer generally must show that he was away from home overnight when the expenses were incurred. The word "home" has been given a specialized meaning that differs from ordinary usage. Courts have interpreted a taxpayer's home to refer to the vicinity of a taxpayer's principal place of business rather than his personal residence.

However, a taxpayer's residence may be treated as his tax home if his principal place of business is temporary rather than indefinite. There was no dispute in this case that each of the taxpayer's job locations were temporary. The court noted that given the relatively short and uncertain duration of these jobs, it did not believe it would have been reasonable to expect the taxpayer's family to move to be nearer to the taxpayer's temporary place of work.

The court next determined whether the taxpayer had a tax home during the years at issue by considering Rev. Rul. 73-529. That guidance considers whether the taxpayer:

- 1) Incurs duplicate living expenses while traveling and maintaining the home,
- 2) Has personal and historical connections to the home, and
- 3) Has a business justification for maintaining the home.

The court found these factors demonstrate that the taxpayer had a tax home in Yakima.

First, the taxpayer had a home in Yakima for which he incurred expenses. He also paid duplicative living expenses while traveling away from this home.

Author's Comment

In contrast, a transient worker that travels from job to job with no duplicative living expenses is considered to have each job location be his or her tax home, even when each job location is temporary.

Second, the taxpayer persuasively testified about his significant personal and historical ties to Yakima, explaining that his family was rooted there.

The principal dispute in the case centered on the third criteria. The IRS argued that the taxpayer had no business justification for living in Yakima and did so merely for the personal reasons that the taxpayer described to the court.

The court disagreed with the IRS. The taxpayer had a sufficient business reason for living in Yakima. He was a member of a union local with a geographically disparate territory. Although he had not worked jobs in Yakima for some time, almost all of his work during the years at issue were within the union's footprint, with some assignments closer to his house than the location of the union hall. The court stated his union membership gave him access to jobs within the union's expansive territory. This provided an adequate business justification for continuing to live in Yakima.

Author's Comment

Union membership is not a requirement to meet the business justification for the location of a tax home. A non-union taxpayer, for example, might meet the business purpose by simply performing some work close to home and living at home while performing such work.

The court concluded that the taxpayer was "away from home" for purpose of being able to deduct travel expenses during the years at issue.