

March 2019

## TCJA One Way to Deduct Personal Vehicle Used for Corporate Business

### **Question**

I have your new tax course. It's great. Thanks very much.

Before purchasing your tax course last month, I bought a business SUV and then incorporated. Thus, the SUV is in my personal name, but I operate my business as a corporation.

I know from your course that because of the Tax Cuts and Jobs Act (TCJA), employee business expenses are not deductible for tax years 2018 through 2025, so I can't claim my vehicle deductions as employee business expenses.<sup>1</sup>

Your tax course says that my corporation can reimburse me for actual expenses on the SUV, including the Section 179 deduction, bonus depreciation, and five-year MACRS depreciation.

My CPA says that the corporation may NOT reimburse me for Section 179 or depreciation. Who's right?

### **Answer**

Nice setup—thanks! Guess who's right? Your course, of course, and here are the facts.

IRS Reg. Section 1.62-2(d)(1) allows as reimbursements the expenses in Part VI, Subchapter B, Chapter 1 of the Internal Revenue Code.<sup>2</sup> The expenses in Part VI of the tax code include, among others,

1. trade or business expenses (Section 162),
2. interest expenses (Section 163),
3. taxes (Section 164),
4. losses (Section 165),
5. bad debts (Section 166),
6. depreciation (Section 167),
7. cost recovery (Section 168),
8. research and development (Section 174),
9. amortization of lease acquisition costs (Section 178),
10. Section 179 expensing (Section 179),
11. deductions for clean-fuel vehicles (Section 179A),
12. amortization of costs for removing barriers to handicapped workers (Section 190),
13. start-up expenditures (Section 195), and
14. goodwill (Section 197).

### **Taxpayers Who Did This**

The Ralph M. Parsons Company reimbursed Milton Lewis \$14,007 to cover 60 percent of the depreciation and maintenance expenses on the home he used for business entertainment.<sup>3</sup> (Home entertainment no longer qualifies for the home-office deduction, but this case does illustrate the depreciation reimbursement.)

In IRS Private Letter Ruling 6406174570A, the IRS ruled that a college could reimburse a professor for his home-office expenses, including depreciation.<sup>4</sup>

## **Overview of the Rules**

In technical terms, your corporation reimburses you under the accountable-plan rules.<sup>5</sup> Under these rules, you, the owner-employee, must

- incur these expenses in the performance of your duties for the corporation,<sup>6</sup> and
- substantiate the expenses to the corporation in accordance with any specific conditions imposed by the Internal Revenue Code.<sup>7</sup>

For example, if your corporation reimburses travel, business meals, or automobile, computer, or airplane expenses, then you (the employee) must submit the documents that support these deductions in accordance with the rules for the deductions.

**Travel.** For travel, you must submit to the corporation receipts for lodging and expenses of \$75 or more, and you must justify the business reason for the trips, etc.

**Vehicle.** For an automobile, the employee must prove the business use of the vehicle — for example, by keeping a three-month log of use — and have receipts for expenses of \$75 or more.

**Home office.** If you are reimbursed for the home-office deduction, your corporation must demand proof that substantiates administrative use, regular use, and exclusive use.

In other words, the corporation acts as an auditor for the IRS, making sure that the expenses meet the requirements of the law.

## **Failure Is Not an Option**

If you, the owner-employee, fail to submit adequate proof, your corporation must include the expense reimbursements in your W-2.<sup>8</sup> Incorrect treatment can cause payroll tax penalties, such as the attention-getting 100 percent trust fund penalty.<sup>9</sup>

With proper proof, your corporation gets the tax deduction for what it reimburses you. You, the owner-employer who receives the reimbursement, have no taxable income.<sup>10</sup>

The reason you have no taxable income is that the reimbursement is from an accountable plan (think expense report); therefore, the reimbursement is<sup>11</sup>

- excluded from your gross income,
- not reported as wages on your Form W-2, and
- exempt from withholding and payment of employment taxes such as FICA and FUTA (federal unemployment).

You want the result that you see in the three bullets above.

## **Takeaways**

The TCJA disallows employee business expense deductions for tax years 2018 through 2025. For you, this means you have no chance to deduct the expenses personally. Your only choice for the valid business deductions is for your corporation to reimburse you and claim the deduction as a corporate expense.

When it comes to your vehicle, your corporation can reimburse you using the IRS standard mileage rates or the actual expenses. With actual expenses, the corporation can reimburse you for vehicle depreciation and Section 179 deductions in addition to your operating expenses for gas and oil, insurance, maintenance, etc.

- 1 IRC Section 67(g).
  - 2 Reg. Section 1.62-2(d)(1).
  - 3 Milton Lewis v. Commr., T.C. Memo 1974-59 rev.d as to percentage by 40 AFTR 2d 77-5817, 560 F2d 973, 77-2 USTC ¶9673 (CA9, 9/13/1977).
  - 4 Private Letter Ruling 6406174570A.
  - 5 Reg. Section 1.62-2(c)(2).
  - 6 Reg. Section 1.62-2(d)(1).
  - 7 Reg. Section 1.62-2(e).
  - 8 Reg. Section 1.62-2(c)(5).
  - 9 IRC Section 6672.
  - 10 Reg. Section 1.62-2(c)(4).
  - 11 Ibid.
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