# Revenue Ruling 75-432[1]

**Traveling expenses; meals and lodging.** Principles are set forth that are applicable in determining, under various factual situations, an employee's deductible expenses for meals and lodging incurred while traveling on business; Rev. Rul. 54-497, 1954-2 C.B. 75 superseded in part.

The purpose of this Revenue Ruling is to update and restate, under the current statute and regulations, the position set forth in Rev. Rul. 54-497, 1954-2 C.B. 75, at 77-81, with regard to the principles applicable in determining when an employee may deduct expenses for meals and lodging incurred while traveling on business.

The courts in considering questions involving deductions for traveling expenses have frequently stated that each case must be decided on its own particular facts. Furthermore, there appears to be no single rule that will produce the correct result in all situations.

Section 162(a) (2) of the Internal Revenue Code of 1954 provides that a deduction shall be allowed for all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including traveling expenses (including [*2] amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business. On the other hand, section 262 of the Code states that, except as otherwise expressly provided, no deduction shall be allowed for personal, living, or family expenses.

A taxpayer cannot deduct the cost of meals and lodging while performing duties at a principal place of business, even though the taxpayer maintains a permanent residence elsewhere. Congress did not intend to allow as a business expense those outlays that are not caused by the exigencies of the business but by the action of the taxpayer in having a home, for the taxpayer's convenience, at a distance from the business. Such expenditures are not essential for the conduct of the business and were not within the contemplation of Congress, which proceeded on the assumption that a person engaged in business would live within reasonable proximity of the business. See *Barnhill v. Commissioner,* 148 F.2d 913 (4th Cir. 1945), 1945 C.B. 96; *Commissioner v. Stidger,* 386 U.S. 287, 18 L. Ed. 2d 53, 87 S. Ct. 1065 (1967), 1967-1 C.B. 32.

It is therefore the long-established position of the Internal [*3] Revenue Service that the "home" referred to in section 162(a) (2) of the Code as the place away from which traveling expenses must be incurred to be deductible is, as a general rule, the place at which the taxpayer conducts the trade or business. If the taxpayer is engaged in business at two or more separate locations, the "tax home" for purposes of section 162(a) (2) is located at the principal place of business during the taxable year. *Markey v. Commissioner,* 490 F.2d 1249 (6th Cir. 1974); Rev. Rul. 60-189, 1960-1 C.B. 60. It should, of course, be emphasized that the location of an

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employee's tax home is necessarily a question of fact that must be determined on the basis of the particular circumstances of each case.

In the rare case in which the employee has no identifiable principal place of business, but does maintain a regular place of abode in a real or substantial sense in a particular city from which the taxpayer is sent on temporary assignments, the tax home will be regarded as being that place of abode. This should be distinguished from the case of an itinerant worker with neither a regular place of business nor a regular place of abode. In such case, the home is considered [*4] to go along with the worker and therefore the worker does not travel away from home for purposes of section 162(a) (2) of the Code, and may not deduct the cost of meals or lodging. Rev. Rul. 73-529, 1973-2 C.B. 37; Rev. Rul. 71-247, 1971-1 C.B. 54.

The tax home rule may be illustrated by its application to railroad employees. The principal or regular post of duty of a member of a train crew is not regarded as being aboard the train, but at the terminal where such member ordinarily, or for an indefinite period (as distinguished from a temporary period, discussed below), begins and ends actual train runs. This terminal is referred to, for tax purposes, as that employee's tax home, the location of which may or may not coincide with the railroad's designation of the home terminal for a particular run.

Whether an employee's current post of duty is that employee's tax home depends on whether that individual is assigned there temporarily or permanently (an assignment for an indefinite period is regarded as a permanent assignment for section 162(a) (2) of the Code purposes). The basic principle is that an employee is considered to maintain a residence at or in the vicinity of that employee's [*5] principal place of business. See *Markey.* An employee who is temporarily transferred to a different area is not expected to move to the new area, and is therefore considered away from home and "in a travel status" while at his temporary post. *Truman C. Tucker,* 55 T.C. 783 (1971); Rev. Rul. 60-189, 1960-1 C.B. 60. However, an employee who is permanently transferred to a new area is considered to have shifted the home to the new post, which is the employee's new tax home. See *Commissioner v. Mooneyhan,* 404 F.2d 522 (6th Cir. 1968), *cert. denied,* 394 U.S. 1001, 22 L. Ed. 2d 778, 89 S. Ct. 1593. The maintenance of the old residence where the taxpayer's family resides, and the taxpayer's travel back and forth, are strictly personal expenses that, under the provisions of section 262, are not deductible. See *Commissioner v. Flowers,* 326 U.S. 465, 90 L. Ed. 203, 66 S. Ct. 250, 1946-1 C.B. 57.

An exception to this rule exists in those unusual situations when the employee maintains a permanent residence for that employee's family at or near the minor or temporary post of duty, and another residence at or near the principal post of duty. Since the employee is traveling away from the principal post of duty on business where the employee also maintains [*6] a residence, the cost of meals and lodging at the minor or temporary post of duty is allowed as a deduction. Of course, the deduction is limited to that portion of the family expenses for meals and lodging that is properly attributable to the employee's presence there in the actual performance of business duties. Rev. Rul. 61-67, 1961-1 C.B. 25; Rev. Rul. 54-147, 1954-1 C.B. 51, 53.

An employee whose assignment away from that employee's principal place of business is strictly temporary (that is, its termination is anticipated within a fixed or reasonably short period of time) is considered to be in a travel status for the entire period during which duties require the employee to remain away from the regular post of duty. For example, if a member of a railroad train crew receives a temporary assignment to a run (whether or not "overnight," a rule discussed below) that begins and ends at a terminal situated at a distance from the tax home, the member may deduct not only the expenses for meals and lodging while making runs from and to that terminal, but all such expenses for the entire time during which duties prevent such member from

returning to the regular post of duty. Typical of temporary [*7] assignments necessitating such an absence from the employee's regular post of duty are replacement or relief jobs during sick or vacation leave of the employees who regularly perform those duties.

Another kind of temporary assignment away from an employee's regular post of duty is a seasonal job that is not ordinarily filled by the same individual year after year. For example, during seasonal shipping periods for the marketing of crops, an employee may be assigned for several months to one or more places that are located at a distance from the regular place of employment. Such an employee is generally regarded as being in a travel status for the duration of such a temporary assignment.

The same rule would be true even if the seasonal job is not temporary, but a regularly recurring post of duty. A seasonal job to which an employee regularly returns, year after year, is regarded as being permanent rather than temporary employment. For example, a railroad employee might habitually work eight or nine months each year transporting ore from the same terminal, maintaining a residence for the employee's family at or near such work location. During the winter, when the ore-hauling service is [*8] suspended, the same employee might also be employed for three or four months each year at another regular seasonal post of duty, taking up residence at or near such employment. The ordinary rule is that when an employee leaves one permanent job to accept another permanent job, such employee is regarded as abandoning the first job for the second, and the principal post of duty shifts from the old to the new place of employment. The employee in the above example, however, is not regarded as having abandoned the ore-hauling assignment during the period in which that service is suspended, since the employee reasonably expects to return to it during the appropriate following season. The employee is conducting a trade or business each year at the same two recurring, seasonal places of employment, and under these circumstances the tax home does not shift during alternate seasons from one business location to the other, but remains stationary at the principal post of duty throughout the taxable year. In each case of this nature, a factual determination must be made in order to establish which of the seasonal posts of duty is the principal post of duty. Of course, the employee may only deduct [*9] the cost of the meals and lodging at the minor place of employment while duties there require such employee to remain away from the principal post of duty.

The rule known as the "overnight rule" or the "sleep or rest rule" is used to determine whether an employee whose duties require that employee to leave the principal post of duty during all or part of actual working hours is considered to be in a travel status. An employee may deduct the expenses for meals and lodging on a business trip away from the principal post of duty only when the trip lasts substantially longer than an ordinary day's work, the employee cannot reasonably be expected to make the trip without being released from duty for sufficient time to obtain substantial sleep or rest while away from the principal post of duty, and the release from duty is with the employer's tacit or express acquiescence, or is required by regulations of a governmental agency regulating the activity involved. The overnight rule is discussed in Rev. Rul. 75-170, 1975-1 C.B. 60, as are the requirements for substantiating claims for deductions for the cost of meals and lodging under section 274 of the Code.

When expenses are incurred for meals [*10] and lodging by an employee "while away from home" in the course of business duties, they are deductible as traveling expenses under section 162 (a) (2) of the Code, subject to the substantiation requirements of section 274. Since such expenses are deductible under section 62 (a) (2) (B) in computing adjusted gross income, the deduction of such expenses does not prevent the employee from electing to compute the tax

either by using the tax table or the optional standard deduction, instead of itemizing actual deductions.

The portion of Rev. Rul. 54-497, 1954-2 C.B. 75 regarding the principles applicable in determining when an employee may deduct expenses for meals and lodging incurred while traveling on business is superseded.