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Senate Committee Reports – Foreign Conventions

S. Rep. No. 1031, 96th Congress, 2d Session 11

Present law:

Present law provides specific rules (sec. 274(h)) limiting the deduction for expenses of attending conventions, seminars, or similar meetings held outside the United States, its possessions, and the Trust Territory of the Pacific. These rules apply not only to the individuals attending the convention, but also to an employer who pays the expenses. Under these rules:

- (1) No deduction is allowed for expenses paid or incurred by an individual in attending more than two foreign conventions in any taxable year.
- (2) With respect to the two conventions for which a deduction is allowable, the amount of expenses that can be deducted for transportation and subsistence are limited. A deduction for transportation expense outside the United States may not exceed the coach or economy rates charged by a commercial airline. The deduction for subsistence may not exceed the dollar per diem rate established for Federal employees at the location at which the convention is held.
- (3) A deduction is allowed for subsistence expenses for all of the days, or half days, as the case may be, of the convention, if (a) a full day or half-day of business activities are scheduled on each day during the convention, and (b) the individual attends at least two-thirds of the total hours of scheduled business activities at the convention. Otherwise, a deduction is allowed for subsistence expenses only for those full or half days during which the individual attends at least two-thirds of the scheduled business activities for that day.
- (4) A deduction for the full amount of expenses of transportation (subject to the coach or economy rate limitation) to and from the site of a foreign convention is allowable only if one-half or more of the total days of the trip are devoted to business-related activities, excluding travel days to and from the convention site. Otherwise, a deduction is allowable only for a prorated portion of the transportation expense (subject to the limit), based upon the percentage of the days devoted to business related activities. In determining whether a day is devoted to business-related activities, the same rules for counting full days and half days for purposes of subsistence expenses are applied.
- (5) The taxpayer must comply with certain reporting requirements. For example, information must be furnished to indicate the total days of the trip (exclusive of the transportation days to and from the convention), the number of hours of each day devoted to business activities (in a brochure describing the convention, if available), and any other

information required by regulations. In addition, the taxpayer must attach a statement to his or her income tax return, signed by an appropriate officer of the sponsoring organization, which must include a schedule of the business activities of each convention day, the number of hours that the individual attended these activities each day, and any other information required by regulations.

Reasons for Change:

General test

The committee believes that present law rules with respect to expenses incurred in connection with attending a foreign convention do not adequately disallow deductions for trips which are actually foreign vacations. However, the committee believes that certain requirements and limitations on deductions under present law are too complex and restrictive for legitimate foreign conventions for which business expenses should be allowed.

Explanation of Provision:

Under the bill, no deduction is to be allowed for expenses allocable to a convention, seminar, or similar meeting held outside the North American area unless, taking certain factors into account, it is "as reasonable" for the meeting to be held outside the North American area as within it. The two-convention rule of present law would be repealed.

Under the proposed reasonableness standard, the factors to be taken into account are: (1) the purpose of the meeting and the activities taking place at the meeting; (2) the purposes and activities of the sponsoring organizations or groups; and (3) the residences of the active members of the sponsoring organization and the places at which other meetings of the sponsoring organizations or groups have been or will be held.

Under the bill, the reasonableness requirement would not be satisfied for a convention, seminar, or similar meeting which is conducted on board a cruise ship.

In addition, the bill makes clear that the foreign convention provisions do not apply to normal business meetings for employees of a company.

Foreign convention - North American area

Under the bill, a convention would not be treated as a foreign convention unless it were held outside the United States, its possessions, and the Trust Territory of the Pacific, and Canada and Mexico.

Subsistence expense limitation

Under the bill, the special subsistence expense limitation under present law would be repealed. As for any other business expenses, expenditures for amounts which are lavish and extravagant would continue to be nondeductible.

Transportation expenses

Under the bill, the special coach fare limitation for transportation expenses would be repealed. As for any other travel expenses, the principal purpose for making the trip must be for business purposes for transportation expenses to be deductible.

Special reporting requirements

Under the bill, the special reporting and substantiation requirement for foreign conventions would be repealed.

Amounts includible in recipient's income

The provision continues current law under which a deduction will not be denied to any person other than an individual attending a foreign convention under circumstances where the travel expenses paid by such person are includible in the income of the recipient, so long as such person paying for such expenses does not fail to comply with any applicable information reporting rules. The language of this provision is changed slightly as a matter of clarification, but the changes will not affect the result of cases currently governed by section 274(h)(6)(D)(ii) of the Internal Revenue Code.

(Under section 107 of H.R. 7956, which was also approved by the committee, the payor must comply with information reporting requirements even if the amount involved is less than \$600 and reporting ordinarily would not be required.)

Effective Date:

This provision is effective with respect to foreign conventions attended after December 31, 1980. Where a taxpayer has made plans to attend a foreign convention and such foreign convention was planned prior to December 31, 1980, such convention would be grandfathered under the terms of this provision.