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There are two types of travelers for tax purposes:

**Temporary Worker**
A worker who is temporarily working away from a permanent “Tax Home” is eligible to receive tax-free travel benefits from their employer and may deduct temporary living expenses on their tax return.

**Itinerant Worker**
An itinerant worker has no permanent Tax Home for tax purposes. Wherever the itinerant is currently working becomes their Tax Home. Which means that they can never be working away from their Tax Home. Because of this, an itinerant is not eligible to receive tax-free benefits from their employer, and not eligible for travel expense deductions on their tax return – in other words, they’ll pay a lot more in taxes, both federal and state.

**What is a Tax Home?**
Your Tax Home determines whether or not you can deduct travel expenses as business expenses and whether or not you are permitted to enter your agency’s “tax advantage program” to receive tax-free housing, housing stipend, and/or meal per diem. You must first decide where your Tax Home is located before you can know whether your travel related expenses are deductible or reimbursable.

The first and primary definition of a Tax Home is the city or general area around your regular place of business, regardless of where you maintain your home or residence. (Note: If you have been working, or expect to work, in the same city or general metropolitan area for 1 year or more, than it is most likely your Tax Home. This is true even if you own a home or claim residency in another state.)
However, if you do not have a regular place of business, then your Tax Home may be the place where you regularly live (if you have such a place). Your main home, or place where you regularly reside, is your Tax Home if you meet all 3 of the following criteria:

1. **Work**: You regularly work in the area of your main home and use your home for lodging while working in the area.
2. **Pay**: You incur substantial and recurring expenses, like paying rent or a mortgage, that are duplicated while working away from home, and
3. **Live**: You often use the home for lodging; you have a member of your family living there. And you have not abandoned this home.

If you do not have a Tax Home, then you are considered an “itinerant” worker for tax purposes, and your Tax Home becomes wherever you are working; even if only temporarily.

Fortunately for travelers, “regular basis” and “substantial and recurring” are not well defined in tax law. IRS relies on your individual “facts and circumstances” to determine Tax Home status. Some of the factors used in this determination are:

How much you pay in relation to fair market value, whether you pay in a formal manner (traceable payments, receipts, lease agreement, etc.), how often you return home, whether or not you work while home or at least actively search for work, whether you pay income and property taxes, voting registration, drivers license, relatives in the area or in your home, etc. There is no single factor, as suggested by some tax preparers or agencies. Like in a court of law, the IRS is looking for a “preponderance of evidence” to support your Tax Home claim – the more points in your favor, the better the likelihood of having a Tax Home.
What then, is sufficient to claim a Tax Home?
I don’t know – because of the lack of definition in tax code. What I can tell you, is that if you are buying a home, you lived there before you started traveling, you plan on returning there permanently after traveling, and you take one or more assignments a year close to home, you have a Tax Home. At the other extreme, if you moved out of Mom and Dad’s house when you started traveling, you pay $35 a month to store your stuff, and you wouldn’t go home on a bet, you do not have a Tax Home (or, to be more accurate, your Tax Home is wherever you happen to be working at the time, which means you’re never working away from your Tax Home and cannot deduct most travel expenses).

In between these extremes, if you rent a room from your parents; you pay fair market value; you pay every month, even while traveling; your parents report the income; and you take an assignment back home at least once a year; then I would be willing to argue with the IRS that you have a Tax Home.

How often should you go home to work?
In order to claim a Tax Home, you cannot work at any temporary job or assignment for more than 12 months. Some employment agencies have a “30 days in 24 month rule” for returning home. The problem with this rule is that if you worked at one hospital over 12 months, even if you go home within 24 months, your Tax Home becomes the general metropolitan area where the hospital is located. As a rule of thumb, we recommend returning home at least once a year (to satisfy the 12 month “temporary” rule), and working at least one 13-week assignment while living there.

What if you work for the same company for over 1 year, but work in different hospitals and states? Tax code defines a permanent job as a single “job or assignment” lasting over 12 months. For a traveler, I would
interpret this to mean a single hospital or city, not a single employer. However, even if you worked for 2 hospitals in one city for a period over 12 months, this would probably be interpreted as becoming your Tax Home, since the entire city is taken into consideration.

**What if you take a travel assignment near home?**
First of all, we have to answer “what is near home?” We’ve heard a lot of travelers, agencies, and even tax preparers site a “50 mile rule,” but it doesn’t exist in tax code. What the tax code does state is that your Tax Home includes the “entire city or general area” of your main place of business – great, what does that mean? Tax code also defines being “away from your Tax Home” as “longer than an ordinary workday in which the taxpayer cannot reasonably be expected to complete the trip without sufficient rest or sleep”; and this is whether you actually stay overnight or not. Therefore, drive time and available time at home are more relevant than distance.

If you take an assignment near home, whether per diem, or through an agency, you are not eligible for tax-free benefits. Why? Because you are not working away from your Tax Home. If you live at home during the assignment you strengthen your Tax Home claim for when you travel. When you take an assignment near home, PLEASE DO NOT take a free apartment (or housing stipend) – the value of the apartment (or stipend) becomes taxable income!

**What are temporary living expenses?**
If you leave your Tax Home for “temporary” work (less that 12 months), you become eligible to deduct temporary living expenses as an “employee business expense”, since these expenses duplicate the expenses you incur at your permanent Tax Home.
If you are eligible to deduct temporary living expenses, you may receive reimbursement from your employer tax-free (under an “accountable” plan), since you would have been able to deduct it on your tax return,

OR you may deduct the expenses on your tax return if not provided by your employer, to the extent they exceed your standard deduction and 2% of your income,

OR you may receive them “in-kind” from your employer tax-free (such as an apartment).

**Can I really get my housing tax-free?**

YES – If you are eligible for temporary living expense deductions (working temporarily away from your permanent Tax Home), not only can you get your expenses reimbursed tax-free from your employer or deduct them on your return, you may also receive the expense in-kind (e.g., a free apartment), or as an allowance tax-free from your employer. Once again, this is because, had you paid the expense yourself, it would have been deductible on your return, so it’s a wash.

Among other rules, the amount of a housing allowance, or the fair market value of free housing cannot exceed the federal domestic per diem tables (IRS publication 1542) to be tax-free. Any amount over must be reported as taxable and have taxes withheld.

The current standard lodging rate is $70 per day. The amount allowed can vary according to the location. Many metropolitan areas qualify as a high expense area and have their own, higher rate (San Francisco is currently $164 for lodging). If your temporary assignment city is not found on the list of high expense areas, it only qualifies for the standard rate.
Out-of-pocket lodging expenses must have receipts to deduct on your return – you cannot take the lodging per diem as a deduction on your return.

**What about the meal per diem? What’s that?**

Once again, if you are eligible for temporary living expenses, meals become a deductible expense, therefore, you may receive a daily meal allowance tax-free from your employer, if offered. Most travel employers pay this as an hourly rate instead of a per diem; but this has not been tested in tax court. The argument would be that it is the industry standard, and therefore may be used in lieu of per diem.

Once again, any amount that exceeds the federal domestic per diem tables (IRS publication 1542), is taxable and subject to withholding. The current standard rate is $39 per day for meals. The meal per diem is called the MIE rate (Meals and Incidental Expenses). The MIE per diem allowed can also vary according to the location. San Francisco’s MIE rate is currently $64. For amounts paid on an hourly basis (which most agencies seem to do), calculate the total weekly amount received, and compare it to 7 times the daily table rate. Again, any amount received over the allowable rate is taxable and should be reported as taxable. Beware if your employer is paying in excess of the allowable rate and not reporting the excess as taxable – you will be held liable for any tax due if reviewed by the IRS.

Amazingly, if your employer does not provide this, you may actually deduct the MIE per diem rate on your tax return with no receipts. 50% of either the MIE or actual meal expenses are deductible.

**What other travel expenses can I deduct?**

If you are eligible for temporary living expenses, travel expenses between assignments are also deductible, or may be reimbursed tax-free.

- Lodging, airline, and car rentals require receipts.
• Meals may be taken as the MIE per diem rate, with no receipts.
• Personal vehicle travel expenses are also deductible.
• Flat rate travel allowances (which most employers provide) must be reported as income, offset by deductions on your tax return; since this is not considered an “accountable” plan by the IRS.

**How do I deduct my vehicle expenses?**
There are two ways to deduct vehicle expense – actual expenses or federal mileage rate.

The best way to deduct vehicle expenses is usually to take the federal mileage rate. The rate is currently 55 cents per mile.

• The mileage rate covers all expenses except tolls.
• You don’t need to have receipts.
• You still need proof of mileage driven (log and/or receipts at year-end showing mileage).
• Gas or other receipts are not required – and it is almost always the better deduction.

Commuting is a personal expense, and therefore not deductible, regardless of distance. However, it can be argued that driving to and from a temporary home and a temporary job is not personal, but a deductible business expense.

**As a traveler, do I have to pay state taxes?**
This is an area ripe with myth, confusion, and plain mis-information. Many payroll services struggle with how to correctly withhold state taxes and correctly report state income.
“Source income” is income earned within a state – EVERY tax state taxes ALL source income earned within that state – no exceptions; regardless of where you live or where your agency resides.

A Florida resident (no-tax state) working in California (tax state) is subject to California tax, even though Florida has no income tax. A New York resident working in California is subject to California tax, even if your employer is located in Florida.

Therefore, you should have tax withheld in every tax state you work, and file a non-resident tax return (unless the state has “reciprocity” with your home state; and then home state tax should be withheld).

Also, ALL income is taxable to your resident state. In order to pay for the privilege and benefits of living in your resident state, every tax state taxes its residents on ALL INCOME, regardless of source.

Sounds like double taxation, but all tax states also allow a credit for tax paid to any non-resident states.

**What is the “other state tax credit”?**
The “other state tax credit” is taken on your resident return for taxes paid to non-resident states, to avoid double taxation.

- You use a separate form for each non-resident state you paid tax to.
- The credit is an amount up to your resident state tax rate; therefore, not necessarily the entire tax paid to the non-resident state.
- This credit gets messy between California, Oregon, Arizona, Virginia, and Indiana.

You will usually still owe tax to your resident state if not withheld.
Therefore, it’s a good idea to ask your employer to withhold tax for your resident state in addition to the state in which you work, even while working outside of your resident state, to avoid owing in April – this is especially important if you live in a tax state, and are working in a tax-free state, since you will not have a tax credit to offset the income.

This extra withholding is normally offset by refunds from non-resident states, but keeps you from owing your home state at tax time. If you have to extend your tax filing, it will also prevent penalties for late payment.

**What is a best case scenario?**

Of course, everyone’s situation is unique, and may not fit a given generalization, especially when it comes to taxes. However, we have found the following to generally be the most advantageous situation for most travelers:

- Maintain a Tax Home, so that you will be eligible for temporary living expense deductions, allowances, or in-kind benefits (the so-called “Tax-Advantaged” programs).
- Take the tax-free housing or allowance if provided by your employer.
- Deduct the meal per diem on your return in order to exceed your standard deduction.

By using the meal per diem deduction to exceed the standard deduction, you are then able to deduct other travel and business expenses, that would have been lost by taking the standard deduction.

Again, generalizations are made to be proven wrong. However, we seldom recommend “buying a deduction”, as it is seldom cost effective – in this case, paying to maintain a legitimate Tax Home in order to be able to deduct temporary living expenses. If you have a Tax Home, by all means
take advantage. But, being an itinerant traveler, while it will cost you more in taxes, is still a pretty sweet deal:

- You still get paid better than permanent staff.
- You still get to see and live in America’s favorite places.
- You can still get free housing, even though you have to pay taxes on it.
- You can still get travel allowances, even though you have to pay taxes on them.

However, you do still have to file multiple non-resident or part-year resident tax returns, which most preparers aren’t very comfortable with, especially if the preparer works in a no-tax state, or the states have reciprocity laws.

For questions concerning your personal situation please contact us at:

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