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Deducting Travel Expenses

The Guide to Writing Off Your Travel by Car, Airplane and Boat

An Exclusive Special Report from
BradfordTaxInstitute.com

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Proving Travel Expenses after Tax Reform

One beauty of being in business for yourself is the ability to pick your travel destinations and also deduct your travel expenses.

You should be prepared if the IRS wants you to prove your business travel expenses. This article gives you a big leg up, with a dozen questions and answers that help you properly document and audit-proof your business travel expenses.

Q&A 1: Corporation or proprietorship?

Question. Are the business travel documentation rules different if I operate my business as a corporation versus as a proprietorship?

Answer. Yes and no.

Not different. With deductions for lodging, a meal, or other travel expenses, the rules governing receipts, business reasons, and canceled checks are the same for corporations, proprietorships, individuals, and employees.

Different. If you operate as a corporation, the corporation is a separate legal entity from you. You are an employee of that corporation. To get the best tax results, you need to know that because of the recent tax reform, employee business expenses that were deductible in years past are not deductible at all during tax years 2018 through 2025.[1]

That's good news, actually, because you should never have claimed your business travel deductions as employee business expenses to begin with. Why? Because tax law put those business deductions in that ugly category where expenses were reduced by 2 percent of adjusted gross income and also subjected to the totally unfair alternative minimum tax (AMT).

Now, because of tax reform, you have no choice if you want the deductions. You need the travel expenses on the corporation's books, and you need to properly document them:

- If you pay the expenses personally, you need the corporation to reimburse you based on a properly submitted expense report.
- If you use a corporate credit card or corporate check for the expenses, you need to document the expenses for the corporate books.

Q&A 2: Do I Have to Keep a Tax Diary for My Business Travel?

No, but the combination of the timely records you keep must prove the four elements below:[2]

1. **Amount.** The amount of each expenditure for traveling away from home, such as the costs of transportation, lodging, and meals.
2. **Time.** Your dates of departure and return, and the number of days on business.
3. **Place.** Your travel destination described by city or town.
4. **Business purpose.** Your business reason for the travel, or the nature of the business benefit derived or expected to be derived.

Q&A 3: Is There an Easy Way to Keep a Tax Diary?

Yes. Use the *Tax Diary System* that we have in the expense report section of your Business Owner Tools or Tax Professional Tools. Here is what the entries for a day of travel would look like:

TRAVEL	Air/rail/boat		
Where (city) Wash DC	Rental car/bus/taxi	57	00
Why (business reason)	Lodging	120	00
Learn Smith's business	Tips, laundry, other	12	00
tactics	Total trv day (no meals)	189	00
MEALS/ENTERTAINMENT/ETC	Trv brkfst	15	00
Who	Trv lunch	19	00
Where	Trv dinner	66	00
Why	Snacks/drinks	10	00
	Ent meals		
	Associated ent		
	Total trv meals & ent	110	00

The system captures the four elements that the IRS requires, including the date (which is shown above the snippet you see in this image).

If you don't like paper, google "app to capture travel expenses" (without the quotes), and you will see myriad online apps for capturing travel expenses.

Q&A 4: Why Are Travel Meals Separated from Other Travel Expenses?

Normally, lawmakers don't like the meals you eat while traveling. To prove their point, they enacted a 50 percent cut in your tax deductions for travel meals.[3] However, for calendar years 2021 and 2022, lawmakers enacted a new, temporary 100 percent business meal deduction in an effort to help the restaurant industry due to the COVID-19 pandemic.[4]

Planning point. The law requires only that the restaurant provide the food and beverages. You don't have to pay the money directly to the restaurant. For example, you qualify for the 100 percent deduction if you order a restaurant meal that's delivered by Uber Eats or Grubhub.

In other words, you can dine in the restaurant, order takeout, or use delivery.

Key point. You need a qualifying business meal for the 100 percent deduction.

Q&A 5: Do I Need Receipts?

Yes and no!

When in tax-deductible travel status, you need a receipt, a paid bill, or similar documentary evidence to prove[5]

- every expenditure for lodging, and
- every other travel expenditure of $75 or more, except transportation, for which no receipt is required if one is not readily available.

Q&A 6: What Is a Receipt?

The receipt is a document that establishes the amount, date, place, and essential character of the expenditure.[6]

Hotel example. A hotel receipt is sufficient to support expenditures for business travel if the receipt contains[7]

- the name of the hotel,
- the location of the hotel,
- the date, and
- separate amounts for charges such as lodging, meals, and telephone.

Restaurant example. A restaurant receipt is sufficient to support an expenditure for a business meal if it contains the

- name and location of the restaurant,
- date and amount of the expenditure, and
- number of people served, plus an indication of any charges for an item other than meals and beverages, if such charges were made.[8]

Q&A 7: Credit Card Statement and Canceled Checks

Question. Can't I simply use my credit card statement as a receipt?

Answer. No. Your credit card statement is like a canceled check. It proves only that *you paid the money, not what you purchased*.[9]

To prove the travel expenditure, you need both the receipt (proof of purchase) and the canceled check or credit card statement (proof of payment).

Q&A 8: What Is a Timely Kept Record?

The IRS says a log maintained on a weekly basis that accounts for activity during the week creates a timely kept record.[10] This is good. In other words, the IRS deems that when you keep a weekly or sooner log, you meet the requirement to record your travel expenses at or near the time you spend the money.[11]

One surefire way to prove that you have a timely record is to make handwritten notes on the receipts when you are signing the slip to charge your credit card. For example, if you were at the 123 convention, you would note "123 convention" on the receipts.

In this case, you would either make separate notes about the trip's business purpose or simply keep the 123 convention program that shows your business purposes.

Q&A 9: $75 Rule Allows Cheating

Question. Since I don't need a receipt for a travel expense under $75 other than lodging, how does the IRS know that I'm not cheating?

Answer. Where did you get the cash to pay the expense? Did you make an ATM withdrawal? Did you cash a check? You can see that the IRS has many ways to know.

Q&A 10: Should I Keep Receipts If the Expense Is under $75?

Yes. We can think of no reason not to keep the receipt, regardless of amount.

Think about it. The receipt backed by a credit charge is proof positive. When the travel expense is less than $75, the IRS allows you to simply write down the expense, but this writing is not proof positive like the receipt backed by the credit card charge.

We advocate proof positive for your travel records. This helps the IRS imagine that you have great records for all your expenses.

Q&A 11: What Are Travel Expenses?

In a nutshell, a travel expense is an expense of getting to and from the business destination and an expense of sustaining life while at the business destination. Here are some examples from the IRS:[12]

- Costs of traveling by airplane, train, bus, or car between your home and your overnight business destination
- Costs of traveling by ship (subject to the luxury water travel rules and cruise ship rules)
- Costs of renting a car or taking a taxi, commuter bus, or airport limo from the airport to the hotel and to work destinations, including restaurants for meals
- Costs for baggage and shipping of business items needed at your travel destination
- Costs for lodging and meals (meal costs include tips to waiters and waitresses)
- Costs for dry cleaning and laundry

- Costs for telephone, computer, Internet, fax, and other communication devices needed for business
- Tips to bellmen, maids, skycaps, and others

Q&A 12: Submitting Travel Expenses to Your Corporation

When you operate your business as a corporation, keep in mind that the corporation is a separate legal entity (person) from you.

And as you know from above, tax reform eliminates employee business expense deductions for tax years 2018 through 2025.

This means that any business expense you pay personally has to be submitted to the corporation for reimbursement or you don't get any tax benefits. You want to do this submission under an "accountable plan." Essentially, this means you will submit the expenses in a manner that documents the expenses in accordance with the IRS rules.

One simple way to do this is to give your corporation your *Tax Diary System* pages for reimbursement, supported by the appropriate receipts.

If you prefer, you can submit to the corporation an expense report that satisfies the IRS requirements for the travel deductions. This means proving where you were and why, along with documenting that the travel record submitted or summarized was kept on a timely basis, and that the expense report contains the required receipts.

Finally, consider using a corporate credit card and properly documenting the expenses. With this method, make sure you settle any cash advances and cash out-of-pocket payments with the corporation on a timely basis, meaning within a week. You can do this with entries in the books of account, with reimbursement to/from petty cash, or by check to/from the corporation.

Takeaways

The travel deduction rules are the same whether you operate your business as a corporation or a proprietorship, with one important exception. When you operate as a corporation during the tax years 2018 through 2025, you must either

- have the corporation reimburse you for the expenses or
- have the corporation pay the expenses.

In all cases, whether you're in a corporation or proprietorship, you must prove:

1. **Amount.** The amount of each expenditure for traveling away from home, such as the costs of transportation, lodging, and meals.
2. **Time.** Your dates of departure and return, and the number of days on business.
3. **Place.** Your travel destination described by city or town.

4. **Business purpose.** Your business reason for the travel, or the nature of the business benefit derived or expected to be derived.

You also must gather the proof and document the deductions on a timely basis, which means within one week.

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[1] IRC Section 67(g) 2018.

[2] Reg. Section 1.274-5T(b)(2).

[3] IRC Section 274(n)(1) 2018.

[4] IRC Section 274(n)(2)(D).

[5] Reg. Section 1.274-5(c)(2)(iii)(A).

[6] Reg. Section 1.274-5(c)(2)(iii)(B).

[7] Ibid.

[8] Ibid.

[9] Ibid.

[10] Reg. Section 1.274-5T(c)(2)(ii)(A).

[11] Reg. Section 1.274-5T(c)(2)(ii).

[12] IRS Pub 463, Travel, Entertainment, Gift, and Car Expenses (2020), posted March 19, 2021, p. 5.

How to Deduct the Transportation Component of Your Business Travel

When you take a business trip, you incur two types of tax-deductible costs:

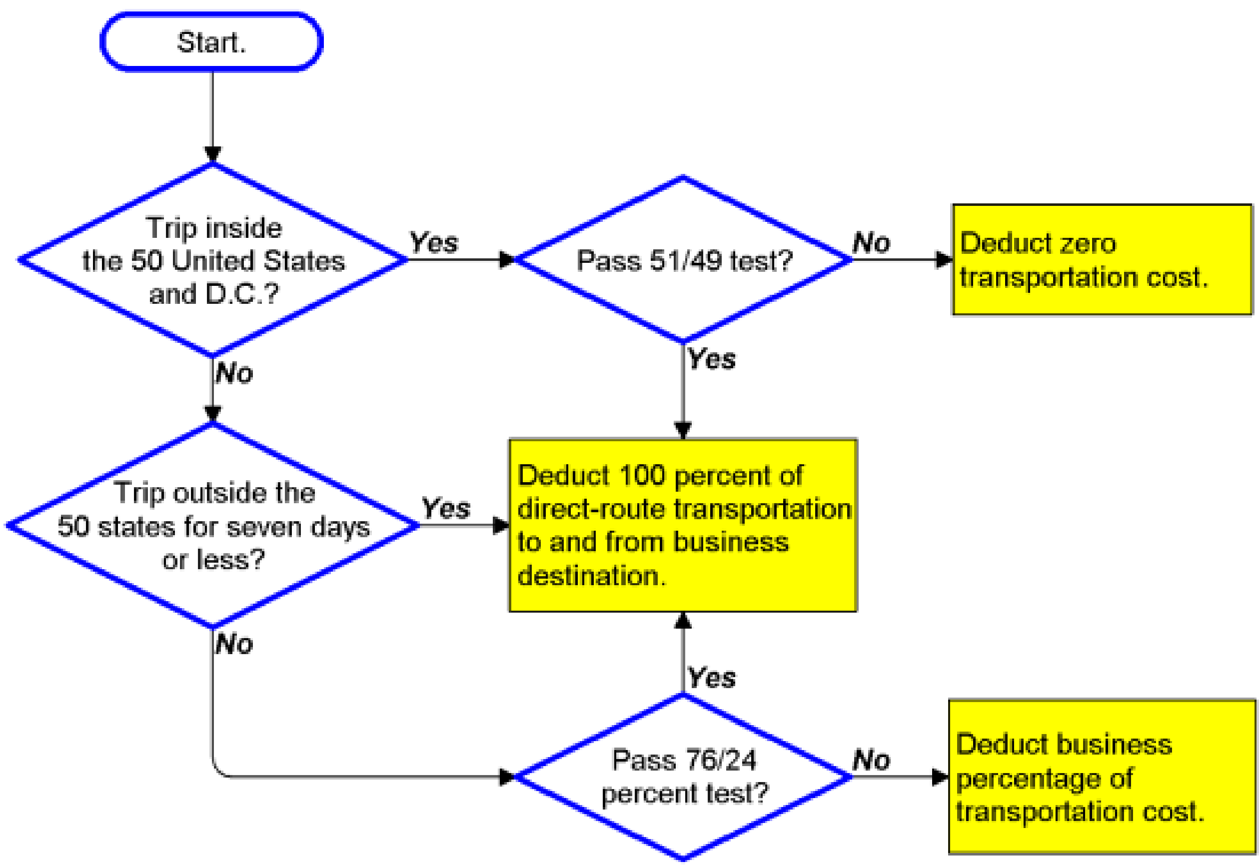
1. Business-day costs
2. Transportation costs

To deduct your business-day costs, you must have a business day, as discussed in the next chapter.

To deduct the transportation costs you incur in getting to and from your business destination, you must satisfy the rules discussed in this article.

Big-Picture Flowchart

Examine the flowchart below to get the big picture of how the rules for deducting transportation to a travel destination work.



Trip Inside the 50 United States

Under IRS regulations, when you travel for business, you are traveling either inside or outside the 50 United States including, Washington, D.C.[1]

The 50 United States include only the 50 states and the District of Columbia. Possessions and territories are not in the 50 states for purposes of this rule.

Example. Your business travel takes you from Chicago to the U.S. Virgin Islands. You traveled to a *foreign* destination. You did not travel in the 50 states.

When you are inside the 50 states, you deduct your transportation cost of getting to and from your business destination under the primary-purpose test, which we refer to as the 51/49 test.

51/49 Test

The 51/49 test is an all-or-nothing rule. When you pass the test, you deduct 100 percent of the direct-route transportation cost of getting to and from your business destination.

When you fail the 51/49 test, you deduct nothing for transportation.

Officially, the 51/49 test is the "primary purpose" test.[2] Thus, think 51 percent or more. We like 51/49, as this clarifies that in most instances you need more business days than personal days to deduct the transportation cost on a trip that includes both business and personal activities.

Example. You travel from New York to Los Angeles on a combined business and personal trip. You have five business and four personal days. Presto, you pass the 51/49 test and qualify to deduct the cost of transportation to and from Los Angeles.

You can win the transportation deduction when you fail the 51/49 test if you have facts and circumstances that prove your primary purpose for the trip was business.[3] The IRS does not provide you with any guidance about facts and circumstances that would meet the primary-purpose test for U.S. travel, but it does reiterate that time spent is an important factor.[4]

Planning tip. Since the IRS considers time the important factor, use the 51/49 test when planning combined business and personal travel.

Trip Outside the U.S. for Seven Days or Less

You are going to like this rule.

When outside the 50 states and D.C., start with this question: Did you work at least one day and travel for seven days or less excluding the day of departure? If you said yes, you deduct the cost of your direct-route transportation cost of getting to and from your business destination.[5]

Example. You fly to St. Thomas in the U.S. Virgin Islands for a business meeting that lasts one business day. You spend six days playing on the beach. You qualify to deduct 100 percent of your transportation cost (airfare, parking, taxis) of getting to and from your tax-defined foreign business travel destination in the U.S. Virgin Islands.

Planning tip. The government does not dictate the type of transportation you use. Thus, you can travel by car, train, plane, or boat, but if you make personal side trips, the side-trip costs are not deductible. The type of transportation and special rules that apply to that transportation are subjects of an upcoming article.

76/24 Test

Say your trip to St. Thomas lasts 10 days. You now face the 76/24 test under which you need to spend more than 75 percent of the days on business to qualify for a 100 percent deduction.[6]

Unlike the 51/49 test, for this 76/24 test, you do not exclude the day of departure.[7]

Example. You travel to St. Thomas on Wednesday for business meetings on Thursday, Friday, Monday, and Tuesday. You play on the beach Saturday and Sunday.

Note that Saturday and Sunday can count as business days. For this trip, they do.

Following the last business meeting on Tuesday, you play on the beach Wednesday and Thursday and then return home on Friday. You are gone 10 days, of which eight are business days as follows:

- Four work days
- Two weekend standby days
- Two business travel days

You qualify to deduct 100 percent of your transportation costs of getting to and from your business destination in St. Thomas.

Allocate Transportation: Deduct Business Percentage

One great advantage to the foreign-travel rule is that failing the 100 percent deduction rule does not rob you of all your business transportation deduction as the U.S. rule does. First, the seven-days-or-less test gives you 100 percent. Pass the 76/24 test and you get 100 percent. When you fail the 76/24 test, you deduct the business percentage of the travel.[8]

Example. Say your St. Thomas trip had only four of 10 days that qualified as business days. Obviously, you fail the 76/24 test, but all is not lost. Because you were outside the U.S., you may deduct 40 percent of what you spent to transport yourself to and from your tax-defined foreign business destination in St. Thomas.

Trip Part Foreign and Part U.S.

What happens when your trip is both in the U.S. and in a location outside the U.S.? You are going to like this rule too.

You treat the time in the U.S. as U.S. time and the time outside the U.S. as foreign-travel time. For this purpose, use the U.S. borders and last-stop rule as follows:

- When using public transportation, you are in the U.S. at the last scheduled stop for purposes of adding and discharging passengers.[9] For example, you fly from Washington, D.C., to Puerto Rico with a stop in Miami, where some passengers depart and others embark. Your travel in the U.S. is from Washington, D.C., to Miami, and your travel outside the U.S. is from Miami to Puerto Rico.[10]
- You fly nonstop from Washington, D.C., to Puerto Rico. The IRS deems the entire flight travel outside the U.S.[11]
- You travel by train from New York to Montreal. You have U.S. travel from New York to the last stop where passengers are added or discharged.[12]
- You travel by car to Canada. You have U.S. travel until you cross the border into Canada.[13]

When you are in the 50 states, apply the U.S. rules to your travel. When you are outside the 50 states, apply the foreign-travel rules.

Keep This in Mind

Your tax-deductible business travel has two components: (1) transportation getting to and from the business destination and (2) costs of sustaining life on your business days.

Your transportation deduction faces one of three tests:

1. The 51/49 test for U.S. travel
2. The seven-day-or-less test for foreign travel
3. The 76/24 test for foreign travel longer than seven days

In looking at the tests, you need to know what is a business day and what is not. Also, to deduct the business-day expenses, you need to identify the days.

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[1]Reg. Section 1.274-4(a).
[2]Reg. Section 1.162-2(b)(1).
[3]Reg. Section 1.162-2(b)(2).
[4]Ibid.
[5]IRS Pub. 463, *Travel, Entertainment, Gift, and Car Expenses* (2020) Updated March 19, 2021, p. 7.
[6]Reg. Section 1.274-4(d).
[7]Reg. Section 1.274-4(c).
[8]Reg. Section 1.274-4(d)(2).

[9]Reg. Section 1.274-4(e)(2)(i).
[10]Reg. Section 1.274-4(e)(3), Example (1).
[11]Ibid.
[12]Reg. Section 1.274-4(e)(3), Example (2).
[13]Reg. Section 1.274-4(e)(2)(ii).

How the Law Decides If Your Travel Day Is Personal or Business

If you operate a business and you travel to a business location where you spend the night, you are in travel status. But will the tax rules make this a business or a personal night?

The rules also affect your costs during the day. When you have an overnight business travel day, you generally deduct your costs of sustaining life for the day, such as breakfast, lunch, dinner, snacks, drinks, lodging, and taxis.

Business days also are important in determining how much of your travel cost you may deduct. For example, on a seven-day trip to London, one business day makes the airfare deductible.[1]

Yep, you heard that right. Six personal days and one business day in London—you deduct 100 percent of the airfare.

Scope of the Regulations

The IRS won't fight with you about classifying a day as a business day if you can prove that the whole day was devoted to business. That's implicit in its regulations that deal with days spent not entirely on business.[2]

This article examines the regulations to see when an out-of-town overnight day is treated as a business day.

Transportation Day

Transportation days are the trickiest days.

Days traveling to or returning from a destination outside the United States are treated as business days—provided you use a "reasonably direct route" and you don't engage in "substantial diversions for non-business reasons" that prolong your travel time.[3]

If you don't use a reasonably direct route, you count as business days the amount of time that a reasonably direct route would have taken.

Similarly, if you engage in substantial non-business diversions, you count as business days the amount of time it would have taken without such diversions.[4]

Mode of Transportation

These rules apply to whatever mode of transportation you used. So if you travel by airplane and don't take a reasonably direct route, you count as business travel days the number of days an airplane would take to reach your destination by a reasonably direct route. The same is true for travel by car or cruise ship.

Two examples from IRS regulations:[5]

Example 1. A taxpayer residing in New York departs on an evening direct flight to Quebec for a business meeting to be held in Quebec the next morning. For purposes of counting the number of travel days, the day of departure is considered a business day.

Example 2. A taxpayer travels by automobile from New York City to Quebec City to attend a business meeting and, while en route, spends two days in Ottawa and one day in Montreal on non-business activities. Here, the taxpayer can count as business days the number of days outside the United States that it would take to drive by a reasonably direct route to Quebec, "taking into account normal periods for rest and meals."[6]

According to Google, you would spend about eight and a half hours driving from New York City to Quebec City. With the border crossing, meals, and gas stops, that easily converts to two business days of travel. Thus, if you spend five days getting from New York City to Quebec City, two of the five days count as business days.

Days When Your Presence Is Required

If your presence is required at a particular place for a specific and bona fide business purpose, that day is a business day regardless of time spent on business.[7]

Example. You live in San Francisco but need to travel to Washington, D.C., personally to sign a contract. The contract signing takes 30 minutes. The contract signing day is a business day. The two travel days (to and from D.C.) also are business days.

Days That Are Primarily Business

You have a business day on a day when, during the hours normally considered appropriate for business, your principal activity is the pursuit of business.[8]

Under this rule, if eight hours is the appropriate length of a workday, you have to work at least four hours and one minute to qualify the day as a business day.

Circumstances Beyond Your Control

If you travel to a business location with the intent to conduct business but could not conduct that business because of circumstances beyond your control, you have a business day.[9]

Example. You travel to Disney World to attend a seminar. The seminar leader is struck ill, and no seminar is held. You go to Epcot for the day. The day is a business day.

(Your Epcot ticket is not deductible. But the rest of your expenses for food and lodging qualify as business deductions because your return flight is the next day.)

Weekends, Holidays, Standby Days

If a Saturday, a Sunday, a legal holiday, or another reasonably necessary standby day intervenes while you endeavor to conduct your business with reasonable dispatch, you treat such a day as a business day.[10]

Example. You travel from Washington, D.C., to Jamaica for business meetings with various prospects, beginning on Tuesday and concluding on Wednesday of the following week. You treat Saturday and Sunday as business days, even if you spend those days at the beach.

On the other hand, if the meetings concluded on Friday and you spent the weekend on the beach, you would count those days as personal, non-deductible days.

Takeaways

The business-day classification of a trip day is important for two reasons.

First, the business-day classification produces deductions for the costs of sustaining life for the day (lodging, food, etc.).

Second, the business-day classification counts toward the trip being a business trip and producing deductions for the cost of travel to and from the destination.

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[1] Reg. Section 1.274-4(c).

[2] Reg. Section 1.274-4(d)(2).

[3] Reg. Section 1.274-4(d)(2)(i).

[4] Ibid.

[5] Ibid.

[6] Ibid.

[7] Reg. Section 1.274-4(d)(2)(ii).

[8] Reg. Section 1.274-4(d)(2)(iii).

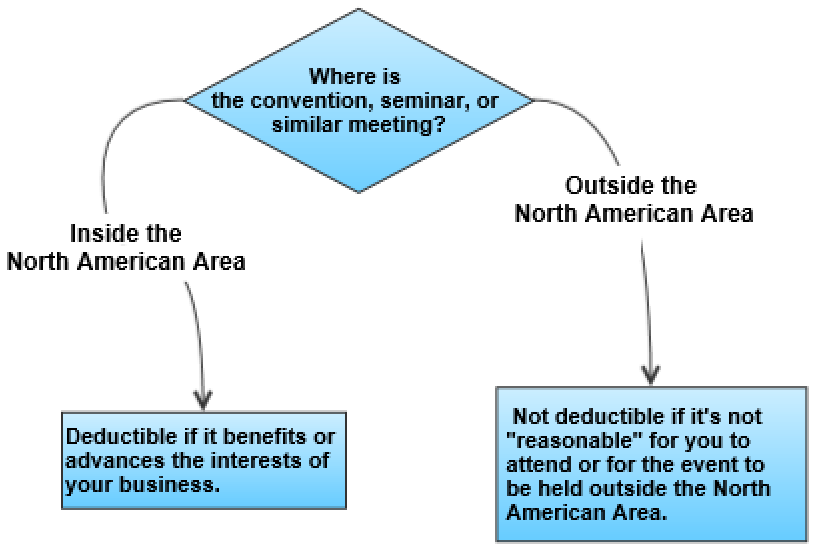
[9] Reg. Section 1.274-4(d)(2)(iv).

[10] Reg. Section 1.274-4(d)(2)(v).

Secrets to Deducting a Convention, Seminar, or Similar Meeting

Would you like to deduct your trip to a convention, seminar, or similar meeting at a nice resort in an exotic location?

Did you know that the tax law breaks the Earth into two locations for conventions, seminars, and similar meetings, as shown in the flowchart below?



Inside the North American Area

Basic rule. You may deduct your travel to and attendance at a convention, seminar, or similar meeting held in the tax-law-defined North American area when it benefits or advances the interests of your business.[1] By IRS regulation, the “benefits” or “advances” make the expenses of the event tax-deductible as ordinary and necessary business expenses.[2]

Example. To improve your business skills, you attend a three-day seminar in Jamaica, which is within the North American area, as you’ll see below. Most of the people at this nice, warm February meeting site come from your hometown in upstate New York, where there’s lots of snow and it’s cold. Because this meeting is in the North American area, your cost of attending is deductible as an ordinary and necessary business expense because the seminar benefits the interests of your business.

Outside the North American Area

When you travel to a convention, seminar, or similar meeting outside the North American area, tax law makes it much more difficult to deduct the costs, as shown in the chart below.

Inside the North American Area	Outside the North American Area
The event must benefit or advance the interests of your business.[3]	The event must be directly related to the active conduct of your business.[4] You must prove that it is as reasonable for the event to be held outside the North American area as within it.[5]

To prove that your attendance at an event outside the North American area is reasonable, you need to consider[6]

- the purpose of and the activities taking place at the meeting;
- the purposes and activities of the sponsoring organizations or groups;
- the residences of the active members of the sponsoring organization, and the places at which other meetings of the sponsoring organization or groups have been held or will be held; and
- other relevant factors.

Example. Francis P. Manning, MD, traveled to Brussels, Belgium, to attend meetings at the International Congress of Radiology. The court ruled that Dr. Manning's corporation could deduct the costs of his travel and convention expenses associated with this meeting.[7]

Dr. Manning operated a radiology practice in Pennsylvania. The court did not give many details about why it allowed the deduction, likely because it's a pretty logical deduction. Dr. Manning showed that his attendance at the radiology convention was directly related to the active conduct of his radiology business and that it was reasonable for him to attend a meeting that explored and advanced the worldwide medical practice of radiology.

North American Area

The North American area includes:[8]

American Samoa
Antigua
Aruba
Bahamas
Baker Island
Barbados
Barbuda
Bermuda
Canada
Costa Rica

Dominica
Dominican Republic
Grenada
Guam
Guyana
Honduras
Howland Island
Jamaica
Jarvis Island
Johnston Island
Kingman Reef
Marshall Islands
Mexico
Micronesia
Midway Islands
Netherlands Antilles
Northern Mariana Islands
Palau
Palmyra Atoll
Panama
Puerto Rico
Trinidad and Tobago
U.S. Virgin Islands
U.S.A.
Wake Island

The North American area also includes U.S. islands, cays, and reefs that are possessions of the United States and not part of the 50 states or the District of Columbia.[9]

Takeaways

1. Deducting conventions, seminars, and similar meetings that take place in the tax-law-defined North American area is easy because all you need to prove is that the event benefits or advances the interests of your business.
2. Deducting conventions, seminars, and similar meetings that take place outside of the North American area requires that you have a directly related business need for this international type of information and, in general, that attendance at the event is by individuals from multiple countries.
3. If you are looking for the easiest way to combine pleasure with your meeting, stick to North America. There are many exotic meeting locations in tax law's generously defined North American area.

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[1] Internal Revenue Manual, Exhibit 4.10.10, Standard Explanations (Last Revised 5/16/2020), Number 5424, Convention not ordinary and necessary.

[2] Reg. Section 1.162-2(d).

[3] Ibid.

[4] IRC Section 274(h)(1).

[5] Ibid.

[6] Ibid.

[7] Francis P. Manning v Commr., T.C. Memo 1993-127.

[8] Rev. Rul. 2011-26.

[9] Ibid.

Tax Planning to Winter in Florida and Summer in Massachusetts

Spend a moment examining the following four short paragraphs that contain the basic facts from the *Andrews* case.[1]

For six months of the year, from May through October, Edward Andrews lived in Lynnfield, Massachusetts, where he owned and operated Andrews Gunite Co., Inc., a successful pool construction business.

During the other six months, Mr. Andrews lived in Lighthouse Point, Florida, where he owned and operated a sole proprietorship engaged in successful horse racing and breeding operations. In addition, he, his brother, and his son owned a successful Florida-based pool construction corporation from which Mr. Andrews took no salary, but where he did assist in its operations.

Instead of renting hotel rooms while in Florida, Mr. Andrews purchased a home, claimed 100 percent business use of the Florida home, and depreciated the house and furniture as business expenses on his Schedule C for his horse racing and breeding business.

Mr. Andrews then allocated his other travel expenses and costs of owning and operating this house in Florida on his individual income tax return as

- personal deductions on his Schedule A for a portion of the mortgage interest and taxes,
- business deductions on his Schedule C for the horse racing and breeding business, and
- employee business expenses on IRS Form 2106 for the pool construction business. (Tax reform under the Tax Cuts and Jobs Act **eliminates** employee business expense deductions for tax years 2018 through 2025—so Mr. Andrews would change his strategy to obtaining expense reimbursements from the pool business.

Answer These Questions

Now that you have had a chance to examine the facts in the case described above, answer these four questions:

1. Will the law allow Mr. Andrews to deduct all his costs of living in Florida for six months of the year?
2. Since Mr. Andrews lived six months in Massachusetts and six months in Florida, where was his “tax home”?
3. Did Mr. Andrews have two tax homes, meaning that he may not deduct either home?
4. If he had two tax homes, one in Massachusetts and one in Florida, how much of his travel was deductible?

What the Courts Had to Say

The first court, the Tax Court, ruled that Mr. Andrews had two tax homes and his travel was not deductible.[2]

Wrong, ruled the second court, the higher court. Mr. Andrews appealed this wrong decision to the First Circuit Court of Appeals, where he got satisfaction and set the record straight. The appeals court[3]

- reversed the Tax Court;
- said that Mr. Andrews could have only one tax home;
- remanded the case to the Tax Court to determine which home, Massachusetts or Florida, was Mr. Andrews's tax home; and
- said that travel from the tax home to the non-tax home, and living in the non-tax home, produces tax deductions for the home, living expenses while in travel status, and transportation deductions between the tax home and the non-tax home.

Important Points from the Appeal

You can have more than one business, but you would need a rare circumstance to produce more than one tax home.

The appeals court noted that there might be a rare circumstance where a taxpayer could have two tax homes—say, living six months in two different locations where he did not have duplicate expenses, because he always lived in hotels.

The court also noted, however, that Mr. Andrews had duplicate living expenses with his maintenance of both the Massachusetts and Florida homes. Therefore, one of these homes was the tax home and the other was the non-tax home.

Your tax home is located at your "major post of duty." The courts determine your major post of duty by examining three factors:

1. Time spent at each business location
2. Activity in each business location
3. Income from each business location

Of the three factors, the courts give greatest weight to time spent.

Planning Tactics

The first thing to know is that you may *not* deduct employee business expenses in tax years 2018 through 2025. That's good, because employee business expenses are bad deductions anyway. When employee business expenses (were and) will be deductible again, they suffer first from the 2 percent adjusted gross income floor and then from the no deduction at all for the alternative minimum tax (AMT).

Planning tip. Even in those years when possible, don't claim employee business expenses. Instead, submit expense reports on a timely basis and have your corporation or partnership reimburse you.

For expenses that apply to the proprietorship business, you simply claim them on your Form 1040, Schedule C.

Here are four tax planning basics that apply to travel, whether deducted on your Schedule C or reimbursed by your corporation or partnership:

1. You have one tax home. You incur deductible travel expenses when you pursue business while away from your tax home overnight.[4]
2. Tax law requires that you have good travel records and that you keep these records on a timely basis—like on a weekly or shorter basis.[5] Don't neglect your travel records.
3. For each travel day, record where you were and why you were there.[6]
4. The law requires receipts for all individual travel expenditures of $75 or more and for all lodging (regardless of amount).[7] We recommend getting all the receipts you can and relying on the $75 rule only when needed, such as when you give a tip to the hotel maid or to a bellperson.

Takeaways

Just as Mr. Andrews did, you can tax plan your life to spend your winters in your tax-deductible Florida home and your summers in Massachusetts.

In this scenario, your tax-deductible Florida home takes the place of your staying in hotels. The second destination is possible because your tax home (your principal place of business) is in Massachusetts.

Your travel expenses between Massachusetts and Florida are deductible because you do business in both places. You deduct your meal expenses in Florida as out-of-town overnight travel expenses.

You can have separate businesses in each state or one business headquartered in Massachusetts with a branch location in Florida.

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[1] Edward W. Andrews v Commr., 931 F.2d 132 (1st Cir., 1991).

[2] Edward W. Andrews v Commr., TC Memo 1990-391.

[3] Edward W. Andrews v Commr., 931 F.2d 132 (1st Cir., 1991).

[4] IRC Section 162(a)(2); Commr. v Flowers, 326 U.S. 465 (1946).

[5] Reg. Section 1.274-5T(c)(2)(ii)(A).

[6] Reg. Section 1.274-5T(b)(2).

[7] Reg. Section 1.274-5(c)(2)(iii).

How to Deduct Cruise Ship Conventions, Seminars, and Meetings

The IRS considers all ships that sail cruise ships.[1]

In 1982, your lawmakers were attempting to give the U.S. cruise ship industry a leg up by outlawing all cruise ship conventions, seminars, and similar meetings other than those[2]

- that take place on a vessel registered in the United States,[3] and
- where all ports of call of such vessel are located in the United States or in possessions of the United States.[4]

The 1982 law remains on the books. Lawmakers have not updated the limits for inflation. Here's the cruise ship convention tax code rule as it existed in 1982 and as it exists today:[5]

With respect to cruises beginning in any calendar year, not more than $2,000 of the expenses attributable to an individual attending one or more meetings may be taken into account under Section 162 . . ."

Had the $2,000 been indexed for inflation, the 2021 amount would be a reasonable $5,548, and that would likely encourage more 2021 U.S. cruise ship convention-type travel.

But that $2,000 is pretty skimpy (perhaps ridiculous) when you consider that the expenses include

- the cost of air or other travel to get to and from the cruise ship port;
- the cost of the cruise; and
- the cost of the convention, seminar, or similar meeting.

Hang Around, Because . . .

The $2,000 ceiling may feel draconian, but hang in there with us, because later in this strategy article, we will show you how to

- avoid almost all dollar limits;
- suffer very few tax rules; and
- deduct all the costs you incur.

But first, let's examine the business tax deduction rules that apply to the convention, seminar, or similar meeting that's held on the cruise ship. Remember, the ship must sail under the U.S. flag, and it must make all its ports of call in the United States or its possessions.

The Law Requires You to Attach Signed Statements to Your Tax Return

If you are not discouraged by the $2,000 limit or the ports-of-call requirement, consider this: You must attach to your tax return a written statement signed by you that includes information about the following:[6]

- Your total days on the cruise ship
- The hours each day you devoted to scheduled business activities
- The program of scheduled activities

Of course, your lawmakers do not want the IRS to believe your statement alone. In addition to your statement, you need to attach to your tax return a written statement, signed by an officer of the sponsoring organization or group, that includes the following:

- The daily schedule of business activities
- Your hours of attendance at the scheduled business activities

Finding a U.S. Cruise Ship

We have no idea why this is, but finding a list of U.S. flag ships is no easy task. We did it, though.

On June 7, 2019, we obtained a list from the Federal Maritime Commission of the U.S. flag ships that have berth or stateroom accommodations for 50 or more passengers and that embark at U.S. ports.

We enhanced the Federal Maritime Commission list to include the year the ship was built or refurbished, where the ship travels, and the URL where you can obtain more information. To access or download the list in PDF format, click here.

What to Think/Do

Conceptually, you have to like the idea of building up the U.S. maritime passenger fleet. And you have to think that lawmakers had that in mind when they disallowed cruise ship convention deductions for all but U.S. registered vessels.

The fly in the ointment is the failure by lawmakers to index the $2,000 limit for inflation.

If you think the U.S. passenger ship industry needs a boost, consider applying pressure on your members of Congress to increase the cruise ship convention deduction limit to something, say, north of $6,000 indexed for inflation. To reach your lawmakers, click the links below:

- Senators: https://www.senate.gov/senators/contact
- Representatives: https://www.house.gov/representatives

Bigger, Better Deductions with Less Hassle

This is a way you can avoid the $2,000 limit, take the cruise you want, and likely deduct all your costs. And this does not have to involve a U.S. ship. Any ship from any country works.

Here's the strategy. You take the cruise ship to a convention, seminar, or meeting that's held

- on land, say at a hotel, and
- in the tax-law-defined North American area.[7]

When you meet the two easy requirements above, you deduct (a) the full cost of getting to and from the location; (b) the full cost of the convention, seminar, or similar meeting; and (c) likely the full cost of the cruise if your onboard ship expenses are less than the following 2021 daily luxury water limits:

- $988 from 1/1 to 3/31[8]
- $740 from 4/1 to 4/30[9]
- $704 from 5/1 to 5/31[10]
- $860 from 6/1 to 9/30[11]
- $776 from 10/1 to 10/31[12]
- $734 from 11/1 to 11/30[13]
- $994 from 12/1 to 12/31[14]

Example. You live in Wausau, Wisconsin, and you attended a one-day sales seminar in Jamaica on February 12, 2021. You traveled by air from Wausau to Miami on February 4 and stayed in Miami that evening.

On February 5, you began your $3,100 cruise to Jamaica in a nice cabin with views, arriving on February 11. You stayed overnight at the seminar site, attended the seminar on the 12th, stayed overnight, and then flew to Miami on the 13. On the 14th, you returned to Wausau.

You incurred $6,500 in expenses for this one-day seminar attendance, and every dollar is deductible.

Compare this to the hassle of deducting only $2,000 under the U.S. rules. And you could not travel to Jamaica under the U.S. rules (although there's nothing wrong with St. Thomas in the U.S. Virgin Islands, but still there's that puny dollar limit and onerous extra paperwork).

Takeaways

The sad note here is that lawmakers never followed up on their original 1982 tax code purpose to help improve the U.S. cruise ship industry.

You can find some tax-deductible cruise ship conventions, seminars, and similar meetings on U.S. flag ships. But we think it's likely that a very limited number of such events will produce for you the tax-deduction results you're looking for.

The good news is that the tax code offers you a great workaround with a convention, seminar, or similar meeting that's held on land somewhere in the tax-law-defined North American area. That's what happened with our example of the sales seminar in Jamaica.

With the meeting on land in the tax-law-defined North American area, you deducted $6,500 and did not suffer

- the $2,000 limit,
- the excessive paperwork requirements, or
- the limited possibilities imposed on the U.S. cruise ship.

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[1] IRS Publication 463, Travel, Gift, and Car Expenses (2020), Dated March 19, 2021, p. 9.

[2] P.L. 97-424, Section 543.

[3] IRC Section 274(h)(2)(A) 2018.

[4] IRC Section 274(h)(2)(B) 2018.

[5] IRC Section 274(h) 2018.

[6] IRC Section 274(h)(5)(A) 2018.

[7] IRS Publication 463, Travel, Gift, and Car Expenses (2020), Dated March 19, 2021, p. 9.

[8] U.S. General Services Administration (GSA) Per Diem Rates for Fiscal 2021; $494 (per diem for Telluride, Colo.) x 2.

[9] Ibid.; $370 (per diem for Key West, Fla.) x 2.

[10] Ibid.; $302 (per diem for Boston, Mass.) x 2.

[11] Ibid.; $430 (per diem for Nantucket, Mass.) x 2.

[12] Ibid.; $388 (per diem for Boston, Mass.) x 2.

[13] Ibid.; $367 (per diem for San Francisco, Calif.)) x 2.

[14] Ibid.; $497 (per diem for Telluride, Colo.) x 2.