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Can Over-the-Road Truck Drivers Establish a Tax Home?

TAX, TRANSPORTATION & LOGISTICS
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With the tax deadline steadily approaching, taxpayers should begin to assess their business expenses to determine if they are eligible for any itemized deductions. A taxpayer, who can establish a “tax home,” as defined by the IRS, is eligible to take highly advantageous travel-related business deductions. For over-the-road truck drivers who are employees of a trucking company, this can be rather difficult if they use their truck as their home. In such a situation, the over-the-road truck driver would never be considered away from his home and, as such, would not be permitted to take any travel-related business deductions.

Establishing a Tax Home

Section 162(a) (2) of the IRS code allows a taxpayer to take a deduction for all the ordinary and necessary traveling expenses incurred during the taxable year while away from his home in conduct of a trade or business. The location of an employee’s tax home is a question of fact that the court determines on the particular circumstances of each case. An individual’s tax home is considered to be: (1) the taxpayer’s regular or principal (if there is more than one regular) place of business; or (2) if the taxpayer has no regular or principal place of business because of their nature of work, the taxpayer’s regular place of abode in a real and substantial sense. If a taxpayer fails to fall within either category, the taxpayer is itinerant with neither a regular place of business nor a regular place of abode. In that circumstance, the home is considered to go along with the worker, and therefore, the taxpayer may not deduct travel-related expense because the worker does not travel away from the home for purposes of Section 162(a) (2).

In a recent case, the court discussed a regular place of abode in a real and substantial sense when it held that a commercial truck driver who was an employee of a trucking company was not allowed to deduct travel-related expenses because he failed to establish a “tax home.” Essentially, to establish a “tax home,” a taxpayer must be able to provide evidence, such as documentation of paying utilities and rent, that he regularly maintains a home in a particular city. In the recent court case, a truck driver listed his mother’s house as his principal residence. However, the driver only stayed at the residence for three days during the taxable year, and he spent another five nights in his truck while he was in the area instead of at his listed residence. Further, and most damaging to his case, the driver paid nothing in terms of rent and utilities for housing during the year. Taking the totality of the circumstances, the IRS found that the truck driver failed to establish that he used his mother’s residence as a regular place of abode in a real and substantial sense, and he could not take any travel-related deduction. If a

truck driver fails to establish a “tax home,” he should consider taking the standard deduction on his return.

Contact us with questions on establishing a "tax home" and visit our Transportation and Logistics industry group page to learn about services that we offer.

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