



Premier Healthcare Professionals

TRAVEL RELATED TAX ISSUES

PHP may provide you certain assignment related expenses potentially including reimbursement of your healthcare license cost, a cents-per-mileage reimbursement subject to a cap or other transportation cost, meal and incidental per diem, and Company provided lodging or a lodging stipend. The tax treatment of the mileage, transportation, meal and incidental per diem and Company provided lodging or lodging stipend is dependent upon your status regarding the following three primary tax rules:

Tax Home

The attached Tax Home Status Assessment Worksheet is provided to assist you in determining whether you have a permanent tax home as generally defined by the IRS in Revenue Ruling 73-529. Because of the critical nature of this determination, including the state income tax treatment, we encourage you to consult with a tax advisor.

The attached Tax Home Affidavit Form must be completed and returned to the Company prior to the start of your assignment. You should retain the Status Assessment Worksheet for your tax files.

One Year Assignment Limit

If your assignment(s) (including extensions) within the same geographical area are expected to last more than one year, tax law dictates that the location of your assignment will be your tax home regardless of your permanent tax home status. Then any meal and incidental per diems, or stipends paid to you or on your behalf must be treated as taxable compensation after the 1 year period. These travel benefits and costs become taxable as soon as it becomes known the assignment will last longer than one year. That is, once an assignment has been extended to the point where it will lapse over the one year anniversary date, the travel expenses will become immediately taxable with the execution of that assignment extension, not just on the 366th day of the extended contract.

Commuting

If you are working an assignment within typical commuting distance from your permanent tax home, then any transportation mileage and costs, meal and incidental per diem, and lodging costs or stipend paid to you or on your behalf must be treated as taxable compensation. Commuting is generally referred to as within the worker's metropolitan area or broader rural geographic area. It is generally the common practice, reasonable daily commute for the area. An undocumented, one way commuting rule of thumb might be as long as 50miles or 2 hours in an urban or suburban area and 100miles or 1.5 hours for a rural area.

The information contained herein is general in nature and based on authorities that are subject to change. Tax information contained in this document is not intended to be used, and cannot be used, by any person as a basis for avoiding tax penalties that may be imposed by the IRS or any state. We recommend each taxpayer seek advise based on their circumstances from an independent tax advisor.



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Tax Home Status Assessment Worksheet

This worksheet is provided to assist you in determining whether you have a permanent tax home as defined by the IRS in Revenue Ruling 73-529, and therefore determine the tax status of the travel costs and/or allowances provided to you or paid on your behalf while on assignment. Because of the critical nature of this determination, we encourage you to consult with a tax advisor. This worksheet is for your personal use and should NOT be returned to PHP.

Please answer the following with a Yes or No:

- ___ 1. Do you perform a portion of your business or work in the vicinity of your permanent tax home? (Many Travelers will not meet this requirement, as they do not have regular work or business in the tax home area).
- ___ 2. Are you duplicating living expenses (mortgage, rent, utilities, etc.) to maintain the permanent tax home while away from home on assignment? (Limited IRS guidance provided, but as a minimum the duplicate expenses to maintain the tax home should exceed \$250.00 per month)
- ___ 3. Do you meet one or more of the following criteria regarding you permanent tax home?
- A: Have a member of your family (spouse, child, or parent) residing with you in the permanent tax home? ___ Yes ___ No
- B: Use the permanent tax home frequently for lodging? (*Limited IRS guidance provided, but the return home trips should be more than a few times a year and one or more of the trips should be much longer than a long weekend.*) ___ Yes ___ No
- C: The permanent tax home represents a historical place of lodging? (*This means the tax home vicinity is where you grew up, went to college, or have recent and long-term ties to the community*) ___ Yes ___ No

IF you responded **Yes to all three** questions above, then you have a permanent tax home and should check Box Z on the Tax Home Affidavit Form.

If you responded **No to two or more** of the three questions above, then you do not have a permanent tax home and must check Box B on the Tax Home Affidavit Form.

IF you responded **Yes to two of the three** questions, then you must consider the following potential “facts and circumstances” attributes to determine whether you have a permanent tax home. All questions do not necessarily require a YES answer to secure a favorable result, but certainly the majority should have a YES response, and the first four questions are of particular importance.



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- Yes No Is the tax home address you address of record and from which you file your income tax returns?
- Yes No Do you have telephone services at the tax home or is it your primary mailing address?
- Yes No Are you auto license plates and driver's license registered with your tax home city?
- Yes No Is the tax home address the address of record for your professional license?
- Yes No Are you registered to vote (and actually vote) at you tax home precinct?
- Yes No Do you have church, club, or other associations in your tax home vicinity.



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Meal Per Diem, Housing and Mileage Programs

Frequently Asked Tax Questions

Q. What are the requirements to qualify for tax free meal per diem, and housing and mileage benefits?

A. There are three main tax rules that must be met for these travel benefits to be nontaxable compensation.

1. The nurse must have permanent tax home.
2. The assignment must not be within commuting distance of the permanent tax home
3. The assignment including extensions may not extend beyond one year.

Q. What are the consequences if one or more of these rules are not met?

A. If the nurse fails to meet the first or second rule, all travel benefits must be treated as taxable compensation from the beginning of the assignment. The taxable compensation would include all meal per diems, housing allowance or Company paid housing cost, and mileage reimbursements. The compensation would be subject to the applicable payroll tax withholding. If the one year limit rule is failed, all of these travel benefits must be treated as taxable compensation as soon as it becomes known that the one year limit will be exceeded. Generally, it is considered known at the time of the signing of the assignment extension that will make the total length of the assignment (plus extensions) beyond one year. The taxable benefit treatment goes into effect on such signing date and would continue through the remainder of the extended assignment.

Q. When must the Tax Home Affidavit Form be completed?

A. The Tax Home Affidavit Form must be complete prior to commencement of the nurse's first assignment, upon the extension of an assignment, and whenever the nurse executes a new Employment Agreement. The form should also be completed whenever there is a change in the nurse's tax home status. The nurse should retain the Tax Home Status Assessment Worksheet.

Q. Who makes the final determination on whether the nurse has a permanent tax home?

A. Because the determination of the tax home status is sensitive to the facts and circumstances of the nurse and can be highly subjective, the nurse (in consultation with their tax advisor) must make the final determination and does so with the completion of the Tax Home Affidavit Form.

Q. Why is the Tax Home Affidavit Form required?

A. In order to pay a tax free housing per diem, not only do the requirements listed above need to be met but the company must also have a "reasonable belief" that temporary lodging expenses are actually incurred by the traveler while away from their tax home on assignment. The Affidavit provides to the company "reasonable belief."



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One Year Limitation and Rules

Background

Except for the break in assignment uncertainty, this IRS rule is reasonably straight forward and objective. The rule even makes some sense in that there needs to be some limit when the temporary location is really no longer temporary and becomes the true tax home. We understand that many smaller and/ or less sophisticated staffing agencies may be unaware of the limitation or intentionally disregard it. However, failure to properly follow the limit could have significant tax, interest and penalty consequences to both employee and employer.

One Year Limit

The tax rules provide that an away from home assignment will meet this temporary requirement (travel expenses not subject to income tax) if the assignment is expected to last less than one year and does in fact last less than one year. If an assignment is extended for which it will then last more than one year, all transportation, meal and incidental per diem and housing allowances and cost must be treated as taxable compensation beginning with expenses incurred when it becomes known that the one year limit is anticipated to be exceeded; not just when the 366th day is reached. Expenses incurred and paid prior to when it is first anticipated the one year limit will be exceeded do not need to be reclassified as compensation. The one year limitation applies to the general work location, not just the same assignment and would apply even if you traveler were employed by a different agency and continued to work in the same general area (within commuting distance of the current worksite or temporary lodging).

Break in Assignment

The IRS has specifically ruled that a break of three weeks away from the current assignment work location is too short to start over the counting on the one year limitation. The IRS has also ruled that a break from the assignment location of seven months is long enough to restart the counting. Unfortunately, the IRS has provided no guidance for break lengths in between these two extremes. We believe a break in assignment of 16 or more weeks may be adequate to restart the counting for the one year limitation. The break may be for pleasure or another assignment or both as long as it is in a different location outside of typical commuting distance from the current assignment and the current temporary housing. In addition, there must be no written or oral understanding of returning to the assignment or assignment area during this break period; otherwise the assignment break will not start the counting over.

Strategy

Assignments with extensions failing the one year limitation will create taxable compensation subject to applicable payroll taxes on all the travel benefits once it is anticipated the one year limit will be exceeded. Assignment extensions must be evaluated in light of this limitation. If the additional income tax burden (could approach or exceed a 40% tax rate) from the increased taxable income is deemed unacceptable and outweighs the intrinsic benefits of the current assignment or location, PHP will work with the traveler to find a temporary assignment in another location with the understanding that returning to the current assignment after at least 16 weeks will be uncertain and will depend on the clients staffing needs at that time. Alternatively, the final extension could be limited so that the multiple extended assignment is less than a full year.