

Non-Overnight Travel Rules

Meal reimbursements for state employees who do not have overnight travel are a taxable fringe benefit, according to the IRS. State agencies should treat employee expense reimbursements for non-overnight travel (i.e., travel not away from home) as a taxable fringe benefit, withhold the applicable federal employment taxes and report these wages on Form W-2.

Reimbursement of an employee's deductible business expenses that meet all IRS requirements are generally not considered a taxable fringe benefit. Those reimbursements that do not meet IRS requirements are, however, considered paid under a non-accountable expense allowance arrangement and are, therefore, considered a taxable fringe benefit.

To be an accountable plan, an employer's reimbursement arrangement must include all three of the following rules. 1) Expenses must have a business connection. 2) An employee must adequately account to the employer for these expenses within a reasonable period of time. 3) An employee must return any excess reimbursement or allowance within a reasonable period of time.

In order for a reimbursement of an expense for business travel to be excluded from income, including meals, an employee must travel away from home. The statutory phrase "away from home" has been interpreted by the Supreme Court to require the employee to travel overnight.

Ordinary and necessary business expenses must be for traveling away from home for the plan to meet the business connection rule. The IRS interprets the language in IRC 162(a)(2) of "while away from home" to require sleep or rest before any expense reimbursement is deductible as an employee business expense and therefore, nontaxable. This interpretation was upheld in a Supreme Court decision (*H.O. Correll*, Sct, 68-1, 389 U.S. 299).

An employer can maintain two arrangements, accountable and non-accountable, for an employee. Those expense reimbursements under an accountable plan are not a taxable fringe benefit. However, those reimbursements under a non-accountable plan are considered a taxable fringe benefit. State agencies should follow the FICA coverage rules applicable to an employee's coverage status for payments made under a non-accountable plan when entering taxable meal reimbursements to the UPPS system.

Example: An employee is required to travel from Frankfort to Bowling Green to work for the day. The employee leaves Frankfort at 7:00 a.m. and returns at 10:00 p.m. On the trip home the employee stops for dinner and rests in the car for one hour. The state agency reimburses, after completion of a travel voucher, the employee's supper meal.

Even though the employee is away from their tax home for substantially longer than a normal work day and even stops for rest, the employee is not considered to be away from home overnight. Court cases have ruled that stopping for a meal or a rest in a car does not meet the substantial sleep or rest rule. Any meal reimbursement that the employee receives is a taxable fringe. Agencies should input the taxable wage into the UPPS system using transaction code 919.

This fact sheet was designed to provide awareness of social security coverage and reporting responsibilities for Kentucky state agencies. This fact sheet should not be cited or used as authority with respect to federal employment taxes. The Internal Revenue Code and the Social Security Act, along with the associated regulations, rulings and case law, are the only valid citations of authority.