MCLE ARTICLE AND SELF-ASSESSMENT TEST

By reading this article and answering the accompanying test questions, you can earn one MCLE law office management credit. To apply for credit, please follow the instructions on the test answer sheet on page 33.

Sponsored by

West Group

By Louis E. Michelson

WISE Deductions

The deductibility of a lawyer's educational expenses may be more questionable than you think

Attending classes after hours is not the recreational activity of choice for most attorneys, but almost all practitioners wind up taking their share of lunchtime, evening, and weekend seminars. Many are motivated by the desire to stay current with developments in their fields, while, for others, California's (now uncertain) minimum continuing legal education requirement is the only thing that drags them into the classroom. But whatever the motivating factor, these classes cost money, and lawyers need to understand what educational expenses may—and may not—be deductible when computing their income taxes. This holds true whether an attorney is practicing solo, in a law firm, or in a corporate legal department.

Unfortunately, the IRS does not offer much guidance to attorneys. IRS Publication 529 ("Miscellaneous Deductions") and Publication 508 ("Educational Expenses") offer the general rules, but most of the examples presented concern teachers, and the IRS does not always apply the analogy. Nor do the relevant Treasury Regulations specifically address questions concerning the educational expenses of lawyers.[1]

As a general rule, personal expenses are not deductible. To be deductible, educational expenses must come under the umbrella of Section 162 of the Internal Revenue Code. This section allows deductions for ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business. For an attorney, "carrying on a trade or business" can have many meanings but generally means working as an attorney. Yet some tax cases have shown that even this straightforward term can become more complicated.

The Treasury Regulations recognize two basic types of deductible educational costs. The first is for education that helps to maintain or improve present work skills.[2] The second category consists of education that is required by an employer or by law to keep a taxpayer's salary, status, or job.[3] These categories, however, are substantially narrowed by two rules that limit deductibility.

Louis E. Michelson is a tax partner with Grobstein, Horwath & Company LLP, certified public accountants in Sherman Oaks. He is an attorney and CPA who specializes in federal and state income tax planning.

First, educational costs that lead to *qualifying* for a different trade or business are nondeductible.[4] If the education allows the taxpayer to qualify for a different trade or business, the costs are not deductible, even if the education enhances an individual's present work skills.[5] Second, education expenses needed to meet the minimum educational requirements for qualification in employment are nondeductible.[6] What those "minimum" educational requirements are, however, is not clear because they can be based on laws and regulations, employer requirements, as well as business standards for the profession. Once a taxpayer has fulfilled the minimum educational requirements in effect when starting in a trade or business, the IRS considers the taxpayer to be carrying on that trade or business even if the requirements are later raised. Thus, any costs incurred by the taxpayer to meet newly imposed requirements are tax deductible. However, individuals do not establish that they have met the minimum educational requirements for their jobs just because they are working in those particular jobs.[7]

No single generalization defines how "carrying on a trade or business" will be interpreted when applied to an attorney, although case law provides some basic guidelines. A student seeking a graduate law degree (for example, an LL.M.) who has never worked as a lawyer cannot deduct the tuition because he or she is not carrying on the trade or business. In a case in which a student happened to be a former IRS agent and a certified public accountant who obtained a graduate law degree, the Tax Court held that he was not carrying on the trade or business of law while pursuing the degree. His prior employment as an IRS agent and CPA did not constitute the practice of law.[8]

However, professional status in and of itself does not establish that an individual is carrying on as a lawyer. A professional is not carrying on a trade or business until he or she has begun to practice the profession.[9] Being a member in good standing of a profession is not tantamount to carrying on that profession for tax purposes.[10]

Entry into the trade or business of law practice would theoretically be satisfied by admission to the bar and perhaps as little as one day of work in the profession. Some of the cases suggest that commencement of permanent employment is the most relevant criterion for determining the beginning of carrying on, with less emphasis placed on being a member of the profession.[11]

Just how long must one work as a lawyer before one is carrying on this trade or business? Existing case authority suggests that the answer lies somewhere between three months and four years. An effective case was made by a lawyer who, after four years practicing law, began a course of study for an LL.M. degree, with the intention of resuming full-time practice upon graduation. The IRS ruled that the cost of pursuing the graduate degree as a full-time student was deductible.[12]

Case authority is less consistent when freshly minted lawyers pursue graduate law degrees three months (or one summer) out of law school. In one case, a law student was admitted to the bar before he graduated. Before his third year of law school (and during winter vacation of his third year) he worked as a law clerk for the firm that subsequently hired him upon graduation. The firm had a policy of offering employment on a permanent basis to graduates even if they planned to seek an advanced degree or clerk for a judge. Based on his prior membership in the state bar before he began full-time employment and the fact that he did the same work as other inexperienced lawyers in the firm, the Tax Court held that the lawyer was engaged in the trade or business of practicing law.[13]

In at least four other instances, however, educational expenses for graduate law degrees were disallowed when the taxpayers started graduate work three months after they graduated from law school.[14] None of them had worked during the summer between law school and graduate school, and only two had been admitted to the bar before continuing their educations.

Lawyers who take a break from the practice of law may also find their status ambiguous when determining whether they qualify as carrying on a business. Consider, for example, an attorney who takes a child care leave of three months and decides to take some extra training before going back to work. A temporary suspension of work for a year or less generally does not trouble the IRS, but the attorney will still have to demonstrate that he or she had been practicing as a lawyer, stopped working (or refrained from going back to work) to take classes required to improve his or her skills, and intended—and

Are the Deductions Worth It?

You're ready to face your taxes for the past year, and you want to deduct all the expenses that you, as a lawyer, can. Unfortunately, for some lawyers the payoff may not be worth the effort. Here's how to tell if you should calculate the deductions.

As a preliminary matter, remember you can only claim unreimbursed expenses. This also means you cannot deduct those expenses that your employer would have reimbursed—had you asked.

The first step is to accumulate the receipts and records for your educational and other miscellaneous expenses from the past year. You should be doing that as part of your record keeping in preparation for filing your tax return. The basic rule of thumb is that a taxpayer should claim itemized deductions if the total amount of these deductions from all sources, including miscellaneous deductions, exceeds the standard deduction.

For self-employed individuals, all unreimbursed educational expenses are claimed on Schedule C of Form 1040. An employed taxpayer's unreimbursed expenses are claimed as miscellaneous itemized deductions on Schedule A of Form 1040. If travel and meal expenses are claimed, Form 2106 (Employee Business Expenses) must also be completed.

The complicating factor in filing Schedule A is the requirement to exceed two thresholds before deducting miscellaneous expenses (from educational costs as well as all other sources). First, only deductions that exceed 2 percent of adjusted gross income (AGI) can be written off. For example, if your total miscellaneous expenses were $2,000 and your AGI was $45,000, you could deduct only $1,100 ($2,000 minus 2 percent of $45,000, or $900). There is also an overall limitation on itemized deductions that applies to certain high-income taxpayers whose AGI exceeds certain thesholds. The 1997 thresholds are $121,200 for single people, heads of households, and married couples filing jointly, and $60,600 for married taxpayers filing separately.

So, unless your total miscellaneous expenses exceed 2 percent of your AGI, save yourself the paperwork. You won't be able to deduct your educational expenses anyway. **—L.E.M.**

continued—to work as a lawyer at the end of the leave.

A more extended absence, however, can call into question whether an attorney is carrying on the practice of law, even if the individual maintains an office. Consider the example of an attorney who accepts a political appointment in Washington, D.C., knowing that the employment may well be terminated after the next election. On the assumption that the attorney will pick up his or her former practice, that attorney may want to maintain contact with former clients by maintaining an old office. However, the Tax Court has held that the maintenance of a law office in preparation for the resumption of practice upon returning home does not constitute carrying on a trade or business.[15]

Even for attorneys who are carrying on the practice of law, the deductibility of educational expenses is not always self-evident. For example, refresher courses that an attorney takes to improve his or her skills as a practicing lawyer are deductible, unless the courses are required to meet the "minimum educational requirements" for qualification to be employed as a lawyer.

So, what exactly are the minimum educational requirements for lawyers? The minimum education necessary is determined in part by laws and regulations, in part by standards of the profession, and finally, by employer requirements. For lawyers, the first factor would in most instances be controlling and set the minimum educational requirement. State bars or quasi-governmental authorities typically require a certain minimum education, such as a law degree, in order to take the bar examination. Professional associations may have additional educational standards, and some law firm employers may also have educational requirements for employment.

Most lawyers have met the minimum educational requirements to work as a lawyer (i.e., attending law school) when they begin practicing. However, additional requirements might be added during the course of a lawyer's career. For example, an employer might require an advanced law degree or the state bar could impose minimum continuing legal education requirements. Either could be a requirement for a lawyer to keep his or her job. Under these circumstances, the educational costs should be deductible, because the cost incurred by an individual to meet new requirements for the job are deductible.[16]

Educational expenses that lead to qualifying for a new trade or business, however, are nondeductible even if the individual is not seeking a new job. Examples contained in existing Treasury Regulations disallow law school expenses even if a taxpayer is required to attend law school as a condition of continued employment and even if the taxpayer never intends to practice law.[17] The Tax Court has not deviated from this principle.[18] This rule applies equally to self-employed professionals[19] and employees.[20]

One law student argued that his law school expenditures were required by his employer and helped maintain and improve his current employment skills. Even though this nonlawyer was already performing tasks that might have been performed by a lawyer, the Tax Court held that the law school expenses were not deductible because the courses were part of a program of study which led to qualifying the nonlawyer for a new trade or business.[21]

Treasury Regulations provide that a taxpayer's change of duties is not considered a new trade or business if the new duties involve the same general type of work that the taxpayer was performing at his or her current job.[22] However, "same general type of work" has been construed very narrowly for lawyers practicing law. For example, the Tax Court has held that attorneys who are licensed to practice in one state qualify for a new trade or business when they obtain a license to practice law in another state. The court held that an attorney employed by the IRS and licensed to practice law in New York state could not deduct the cost of the California bar review course when he became qualified to practice law in California.[23] The Tax Court reasoned that prior to admission to the California bar, the IRS attorney could not appear in California state court or act as an attorney in California outside the scope of his employment with the IRS. After admission to the California bar, he could appear in all California courts with accompanying privileges and obligations.

A dissenting opinion in the case made the more persuasive argument that there was no difference between the types of tasks and activities the lawyer was qualified to perform before and after he acquired a California license. Even the IRS, in its publication on education costs, takes a more lenient position (at least for teachers), providing that teachers who are qualified in one state remain qualified even if they need to take additional courses to be certified in a new state.[24]

Apart from the issue of qualifying to practice in a different state, there is a range of deductible education costs associated with broadening a lawyer's skills that could be inferred from Treasury Regulations—if one can safely analogize from the examples of

(Continued on page 47)

This *Los Angeles Lawyer* MCLE self-study test is sponsored by the WEST GROUP.

WEST GROUP

Bancroft-Whitney • Clark Boardman Callaghan
Lawyers Cooperative Publishing • WESTLAW® • West Publishing

MCLE Test No. 57

The Los Angeles County Bar Association certifies that this activity has been approved for Minimum Continuing Legal Education law office management credit by The State Bar of California in the amount of 1 hour.

1. A law student who is hired to work as a law clerk at a law firm while an attorney at the same law firm is on vacation is "carrying on" the trade or business of practicing law.

True.
False.

2. Educational expenses for California lawyers will continue to be deductible only if the MCLE statute is found to be constitutional.

True.
False.

3. Professional status as a lawyer is sufficient to constitute carrying on as a lawyer.

True.
False.

4. How long must a person work as a lawyer before being deemed to be carrying on as a lawyer?

A. Three months.
B. Four years.
C. Between three months and four years.
D. None of the above.

5. The minimum education necessary for lawyers is determined mostly by reference to:

A. Laws and regulations.
B. Standards of the profession.
C. Employer requirements.
D. Budgetary restraints.

6. Once a lawyer has met the minimum legal requirements to work as a lawyer, if those requirements subsequently are raised, any educational expenses necessary to comply with the new requirements are nondeductible.
True.
False.

7. If a lawyer stops working for more than six months as a lawyer, that lawyer, in all circumstances, is considered to have stopped carrying on as a lawyer, and all continuing education expenses are nondeductible.
True.
False.

8. A lawyer licensed to practice in California can deduct the cost of obtaining a license to practice in New York.
True.
False.

9. The costs of retraining a trial attorney to practice as a labor lawyer are nondeductible because the attorney is qualifying for a new trade or business.
True.
False.

10. All law practice management courses are nondeductible.
True.
False.

11. If an employee is reimbursed an educational expense under a reimbursement plan that is an accountable plan under the Treasury Regulations, the employee need not report either the reimbursement or the expense on his or her income tax return.
True.
False.

12. The funds an attorney expends on computer research in preparation for a seminar presentation are deductible.
True.
False.

13. Out-of-town courses are more likely to be deductible than seminars offered within a mile of the lawyer's office.
True.
False.

14. Courses in preparation for a specialty certification are probably deductible as long as the certification is not viewed as a requirement to qualify to work as a specialist.
True.
False.

15. Expenses incurred in visiting relatives in connection with a seminar are always deductible.
True.
False.

16. For a lawyer who goes directly from home to school on a temporary basis for an otherwise qualified education cost, round-trip transportation costs are fully deductible without regard to the location of the school, the distance traveled, or whether school was attended on nonwork days.
True.
False.

17. If educational expenses qualify for a deduction, only 50 percent of associated meal expenses are deductible.
True.
False.

18. A law firm pays $100 for an attorney to attend a seminar. Both the law firm and the lawyer can simultaneously deduct the cost of the $100 seminar.
True.
False.

19. Self-employed individuals can claim unreimbursed educational expenses on Schedule C of their Form 1040.
True.
False.

20. An employee's expenses claimed as a miscellaneous itemized deduction must exceed 5 percent of adjusted gross income.
True.
False.

MCLE Answer Sheet #57

WISE DEDUCTIONS
Sponsored by WEST GROUP

Name _____

Law Firm/Organization _____

Address _____

City _____

State/Zip _____

Phone _____

State Bar # _____

Instructions for Obtaining MCLE Credits

1. Study the MCLE article in this issue.

2. Answer the test questions opposite by marking the appropriate boxes below. Each question has only one answer. Photocopies of this answer sheet may be submitted; however, *this form should not be enlarged or reduced.*

3. Mail the answer sheet and the $15 testing fee ($20 for non-LACBA members) to:

Los Angeles Lawyer
MCLE Test
P.O. Box 55020
Los Angeles, CA 90055

Make checks payable to Los Angeles Lawyer.

4. Within six weeks, Los Angeles Lawyer will return your test with the correct answers, a rationale for the correct answers, and a certificate verifying the MCLE credit you earned through this self-assessment activity.

5. For future reference, please retain the MCLE test materials returned to you.

Answers

Mark your answers to the test by checking the appropriate boxes below. Each question has *only one answer.*

1.	☐ True	☐ False
2.	☐ True	☐ False
3.	☐ True	☐ False
4.	☐ A ☐ B	☐ C ☐ D
5.	☐ A ☐ B	☐ C ☐ D
6.	☐ True	☐ False
7.	☐ True	☐ False
8.	☐ True	☐ False
9.	☐ True	☐ False
10.	☐ True	☐ False
11.	☐ True	☐ False
12.	☐ True	☐ False
13.	☐ True	☐ False
14.	☐ True	☐ False
15.	☐ True	☐ False
16.	☐ True	☐ False
17.	☐ True	☐ False
18.	☐ True	☐ False
19.	☐ True	☐ False
20.	☐ True	☐ False

teachers. For example, attorneys practicing in one field, such as corporate law, might seek training in estate planning/probate. Treasury Regulations would seem to permit the deduction of such training expenses, since the regulations permit a mathematics teacher who assumes new duties as a science teacher to deduct any training costs involved in that change on the assumption that the teacher is not entering a new trade or business.[25] This line of reasoning would also seem to hold for a lawyer who obtains training in order to work for a different type of employer, such as switching to a private law firm from a corporate or government law office.

However, it may prove more difficult to deduct expenses when a lawyer takes courses to prepare for a practice specialty certification examination offered by the State Bar. If the expenses associated with the certification process are viewed as a part of the minimum educational requirement to qualify to work as a specialist, they may not be deductible. For example, when a general medical practitioner sought to deduct tuition costs while training to become a psychiatrist, the Tax Court held that the doctor did not undertake the residency to improve his skills as a general practitioner but to qualify for a new profession.[26]

Less certain are training expenses that allow a lawyer to become a law firm manager. If the change in duties is viewed as analogous to the change a classroom teacher undergoes in becoming a school principal, the expenses would be deductible, as Treasury Regulations specifically approve the deductibility of relevant expenses in that situation.[27] However, the dividing line is narrow: training for management responsibilities could qualify an individual for a new trade or business such as, in this example, an office manager.

Situations in which an individual lawyer becomes a certified MCLE provider present another test of the definition of "same general type of work." The cost of obtaining the MCLE certification might qualify the lawyer for a new trade or business—as an educator of lawyers. It is therefore possible that the IRS would distinguish the costs of obtaining MCLE certification from the costs attributable to an individual's research and preparation for a single presentation.

The deductibility of the full costs of holding seminars where clients and potential clients are invited to attend and meals are served would also be limited. Section 274 of the Internal Revenue Code imposes a 50 percent limit on the deduction of business-related entertainment, meal, and gift expenses. Depending on the mix of food and entertainment provided, a catered seminar may be subject to this 50 percent limitation.

Once educational program expenses qualify for a tax deduction, three types of incidental expenses also become eligible for deduction: transportation, lodging, and meals. Transportation expenses include the cost of going directly from work to the educational setting and the cost of returning from there to home. If the taxpayer goes directly from home to the educational setting on a temporary basis, the round-trip transportation costs would be deductible without regard to the location of the setting, distance traveled, or whether the educational sessions took place on nonwork days.[28]

Lodging and meal expenses are deductible if a lawyer travels overnight to obtain qualified education (assuming that the main purpose of the trip is to attend a work-related course or seminar). Personal expenses incurred during the trip, such as for visiting relatives or sightseeing, are nondeductible. One important factor in determining whether the main purpose is personal or educational is the amount of time spent on personal activities and educational activities. The cost of meals and lodging are both deductible as travel expenses, but meal expenses are only 50 percent deductible and must be reported on IRS Form 2106. (See "Are the Deductions Worth It?" page 30.)

The deductibility of costs for broadening a lawyer's skills can be inferred from the regulations—if one can safely analogize from the examples of teachers.

Many lawyers are reimbursed by their employers for their educational expenses. Are these reimbursements excludable from the taxpayer's gross income? Are the costs deductible by the employer? The answers to these two questions depend on what the payments are for, how the payments or reimbursements are made, the relationship between the payor and recipient, and, in some instances, on the amount of the payments.

There are three general frameworks in which employer-provided education can be analyzed: reimbursements and payments under IRC Section 162, payments pursuant to qualified educational assistance programs under Section 127, and fringe benefit payments under Section 132.[29]

Under Section 162, if the employer pays the educational costs directly to a school or educational institution on behalf of an employee, and if the educational expense would have been deductible if the employee had paid the costs directly, the employer should be able to deduct the expense as an ordinary and necessary business expense. Moreover, the employee can exclude the payments from his or her gross income for income tax purposes.[30]

If, instead of direct payments to the school, the employer reimburses the employee for educational expenses, the reimbursements become gross income to the employee.[31] However, if the amount of the reimbursement equals the amount of the educational expense, the employee need not report the reimbursement or the expense on his or her income tax return.[32] This is true even if the employee does not elect to itemize deductions. For this nonreporting provision to apply, however, the reimbursement must qualify as an "accountable plan" under the Treasury Regulations.[33] If it is not an accountable plan, the reimbursement would be considered gross income and the taxpayer's educational expense could be used to offset it only as a miscellaneous itemized deduction subject to a 2 percent floor. (See "Are the Deductions Worth It?" page 30.)

If the employee's courses would lead to qualification for a new trade or business, they would become personal expenses, and the reimbursement would be included in the employee's gross income. The employer could consider the reimbursement as a form of employee compensation and deduct it as an

ordinary business expense.[34]

Internal Revenue Code Section 127 provides the second framework for analyzing employer-provided education. Repeatedly extended on a temporary basis since its initial enactment in 1978 and reinstated under the Taxpayer Relief Act of 1997,[35] Section 127 provides for educational assistance programs that allow employees to exclude from their annual gross incomes the first $5,250 of educational assistance provided by their employers.[36] The assistance may include any form of instruction that improves or develops the capabilities of the individual and is not limited to instruction that is job related or part of a degree program.[37] Accordingly, an employer may be able to provide tax-free educational benefits (provided that they otherwise qualify for deduction under Section 162) even though the benefits would not maintain or improve an employee's present work skills or would lead to qualifying the employee for a new trade or business. It does not matter whether the employer pays the educational institution directly or reimburses the employee.[38]

There are, however, many requirements and restrictions in Section 127 programs that need to be carefully monitored in order to take advantage of the exclusion. These restrictions include:

- The reimbursed costs may not include meals, lodging, or transportation nor expenses for supplies that the employee may keep after the course of instruction.[39]
- The exclusion does not include graduate level courses, which are defined for this purpose as courses normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree.[40]
- The educational assistance program must meet certain participation requirements and may not discriminate in favor of highly compensated employees, as tested under qualified benefit plans.[41]
- The program may provide benefits to members of a partnership,[42] but it may not provide benefits to an employee's children or spouse.[43]

The third framework for excluding employee educational reimbursement payments governs payments that qualify as a working condition fringe benefit.[44] A working condition fringe benefit is a benefit that, if the employee had paid for it, would have been deductible as a trade or business expense incurred as an employee of the employer.[45] To the extent that educational benefits meet the requirements for deduction under Section 162 but exceed the $5,250 limit of an educational assistance program, the benefit should qualify for exclusion from income as a working condition fringe benefit.[46] The recipients of these benefits are limited to current employees, although the benefits are generally not subject to a nondiscrimination requirement.[47]

Lawyers have many opportunities to deduct their educational expenses. If they put forth the effort to improve their skills as legal professionals, it is only reasonable that they be allowed a tax deduction for these expenditures. Unfortunately, IRS regulations make this straightforward proposition unnecessarily complicated. Reading the Internal Revenue Code may not be as much fun as attending a seminar, but it can be equally rewarding—especialy when you are the one paying for the classes. ■

---

[1] Treas. Reg. §1.162-5.
[2] Treas. Reg. §1.162-5(a)(1).
[3] Treas. Reg. §1.162-5(a)(2).
[4] Treas. Reg. §1.162-5(a)(3).
[5] *Id.*
[6] Treas. Reg. §1.162-5(b)(2).
[7] *Id.*
[8] Goldenberg v Comm'r, 65 T.C.M. (CCH) 2338 (1993).
[9] *See, e.g.*, Fielding v. Comm'r, 57 T.C. 762 (1972); Johnson v. United States, 332 F. Supp. 906 (E.D. La. 1971).
[10] Wassenaar v. Comm'r, 72 T.C. 1195 (1979).
[11] *Id.*; Randick v. Comm'r, 35 T.C.M. 195 (1976).
[12] Priv. Ltr. Rul. 9112003 (Dec. 18, 1990).
[13] Ruehmann v. Comm'r, 30 T.C.M. (CCH) 675 (1971).
[14] Johnson, 332 F. Supp. 906; Wassenaar, 72 T.C. 1195; Randick, 35 T.C.M. 195; Kohen v. Comm'r, 44 T.C.M. (CCH) 1518 (1982).
[15] Owen v. Comm'r, 23 T.C. 377 (1954).
[16] Treas. Reg. §1.162-5(b)(2).
[17] Treas. Reg. §1.162-5(b)(3)(ii), Example (2).
[18] *See, e.g.*, Watkins v. Comm'r, 59 T.C.M. (CCH) 466 (1990); Ardavany v. Comm'r, 38 T.C.M. (CCH) 569 (1979); Reed v. Comm'r, 37 T.C.M. (CCH) 1508 (1978); Bouchard v. Comm'r, 36 T.C.M. (CCH) 1098 (1977).
[19] Treas. Reg. §1.162-5(b)(3)(ii), Example (1).
[20] Treas. Reg. §1.162-5(b)(3)(ii), Example (2).
[21] Stuart v. Comm'r, 42 T.C.M. (CCH) 405 (1981).
[22] Treas. Reg. §1.162-5(b)(3)(i).
[23] Sharon v. Comm'r, 66 T.C. 515 (1976), *aff'd per curiam*, 591 F. 2d 1273 (9th Cir. 1978), *cert. denied*, 442 U.S. 941 (1979). *See also* Horodsky v. Comm'r, 54 T.C. 490 (1969) (law school expenses not deductible by European lawyer).
[24] I.R.S. Publication 508, Educational Expenses (Requirements for Teachers, Certification in a New State).
[25] Treas. Reg. §1.162-5(b)(3)(i)(b).
[26] *See, e.g.*, Fielding, 57 T.C. 762.
[27] Treas. Reg. §1.162-5(b)(3)(i)(d).
[28] I.R.S. Publication 508, Educational Expenses (Transportation Expenses, Example 3).
[29] This is not an exclusive list of educationally related tax benefits. There is a wide array of other educationally related tax benefits such as tuition payment plans (as welfare benefit plans). *See, e.g.*, Treas. Reg. §1.162-10(a); Schneider v. Comm'r, 63 T.C.M. (CCH) 1787 (1992); tuition-reduction plans offered by colleges, I.R.C. §117(d). *See, e.g.*, Priv. Ltr. Rul. 9239044 (July 2, 1992); qualified scholarships, I.R.C. §117(b); Treas. Reg. §1.117-4(c); and certain recently enacted provisions of the Taxpayer Relief Act of 1997 [hereinafter TRA 1997], such as the HOPE scholarship credit and lifetime learning credit, TRA 1997 §201, 26 U.S.C. §25A (1997); interest deduction on education loans, TRA 1997 §202(a), 26 U.S.C. §221 (1997); education IRAs, TRA 1997 §213(a), 26 U.S.C. §530 (1997); and loan forgiveness exclusions, TRA 1997 §225, 26 U.S.C. §108(f) (1997). All of these provisions fall outside the subject matter of this article.
[30] Rev. Rul. 76-62, 1976-1 C.B. 12; Rev. Rul. 76-65, 1976-1 C.B. 46.
[31] *Id.*
[32] Treas. Reg. §1.162-17(b)(1).
[33] *See* Treas. Reg. §1.62-2. A reimbursement plan is an accountable plan where three conditions are met: there must be 1) a business connection for expenses, 2) substantiation of expenses, and 3) a requirement to return reimbursed amounts in excess of the substantiated expenses.
[34] Rev. Rul. 76-62, 1976-1 C.B. 12; Rev. Rul. 76-65, 1976-1 C.B. 46.
[35] TRA 1997 §221 (1997).
[36] I.R.C. §127(a)(2).
[37] I.R.C. §127(c)(1); Treas. Reg. §1.127-2(c)(4).
[38] Treas. Reg. §1.127-1(a)(1).
[39] I.R.C. §127(c)(1); Treas. Reg. §1.127-2(c)(3)(i)-(iii).
[40] I.R.C. §127(c)(1) (last sentence).
[41] I.R.C. §127(b)(2); Treas. Reg. §1.127-2(e).
[42] I.R.C. §§127(b)(1); Treas. Reg. §1.127-2(d) and (h)(1).
[43] Treas. Reg. §1.127-2(d).
[44] I.R.C. §132(d).
[45] *Id.*
[46] I.R.C. §132(j)(8).
[47] Treas. Reg. §1.132-5(q).