

Senator Matsunaga

Tax Treatment of Expenses in  
Attending Foreign Conventions 1/

Present law

Present law provides specific rules (sec. 274(h)) limiting the deduction for expenses of attending conventions, seminars, or similar meetings held outside the United States, its possessions, and the Trust Territory of the Pacific. These rules apply not only to the individuals attending the convention, but also to an employer who pays the expenses. Under these rules:

(1) No deduction is allowed for expenses paid or incurred by an individual in attending more than two foreign conventions in any taxable year.

(2) With respect to the two conventions for which a deduction is allowable, the amount of expenses that can be deducted for transportation and subsistence are limited. A deduction for transportation expense outside the United States may not exceed the coach or economy rates charged by a commercial airline. The deduction for subsistence may not exceed the dollar per diem rate established for Federal employees at the location in which the convention is held.

(3) No deduction is allowed for subsistence expenses unless (a) a full day or half-day of business activities are scheduled on each day during the convention, and (b) the individual attends at least two-thirds of the hours of the daily scheduled business activities, or, in the aggregate, attends at least two-thirds of the total hours of scheduled business activities at the convention.

(4) A deduction for the full amount of expenses of transportation (subject to the coach or economy rate limitation) to and from the site of a foreign convention is allowable only if one-half or more of the total days of the trip are devoted to business-related activities. In determining whether a day is devoted to business-related activities, the same rules for counting full days and half-days for purposes of subsistence expenses are applied.

(5) The taxpayer must comply with certain reporting requirements. For example, information must be furnished to indicate the total days of the trip (exclusive of the transportation days to and from the convention), the number of hours of each day devoted to business activities (in a brochure describing the convention, if available), and any other information required by regulations. In addition, the taxpayer must attach a statement to his income tax return, signed by an appropriate officer of the sponsoring organization, which must include a schedule of the business activities of each convention day, the number of hours that the taxpayer attended these activities each day, and any other information required by regulations.

1/ The Subcommittee on Tourism and Sugar of the Senate Committee on Finance held hearings on July 20, 1979, on proposed changes in the tax rules affecting foreign conventions. At this hearing, comments with respect to S.589, S.749, and S.940 were heard.

The bill, S.589 (introduced by Senators Bentsen, Javits, DeConcini, Hayakawa, and Church), would provide that conventions held within the North American area, rather than only in the United States and its possessions, would not be subject to the rules for deductibility of foreign convention expenses. For this purpose, the North American area would include Mexico, Canada, and the United States and its possessions.

The bill, S.749 (introduced by Senators Goldwater and DeConcini), would repeal the existing foreign convention rules.

The bill, S.940 (introduced by Senator Mathias), would repeal the reporting requirements imposed under present law upon the sponsoring organization or group.

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Issues

(1) In general.--A principal issue is whether deductions for expenses attributable to attending a foreign convention should be subject to special requirements in addition to the general ordinary and necessary standard for deductibility. If special requirements are appropriate, another issue is what form the special requirements should take. A further related issue is whether the special requirements should apply to all foreign conventions attended by a taxpayer or only for those exceeding a particular number.

(2) Coverage of foreign convention rule.--Another issue is whether an exception should be provided under any special foreign convention deductibility requirements for conventions held in neighboring countries.

(3) Subsistence expense limitation.--Another issue is whether there should be any special limitations on the amount deductible for subsistence expenses incurred in attending a foreign convention.

(4) Transportation expense limitation.--Another issue is whether travel expenses incurred in attending a foreign convention should be subject to a special limitation, such as coach fare.

(5) Special reporting requirements.--Another issue is whether special reporting and substantiation requirements should apply with respect to foreign convention expenses.

Description of the proposal

General test

Under the proposal, no deduction is to be allowed for expenses allocable to a convention, seminar, or similar meeting held outside the North American area unless, taking certain factors into account, it is "as reasonable" for the meeting to be held outside the North American area as within it. The two-convention rule of present law would be repealed.

Under the proposed reasonableness standard, the factors to be taken into account are: (1) the purpose of the meeting and the activities taking place at the meeting; (2) the purposes and activities of the sponsoring organizations or groups; and (3) the residences of the active members of the sponsoring organization and the places at which other meetings of the sponsoring organizations or groups have been or will be held.

Under the proposal, the reasonableness requirement would not be satisfied for a convention, seminar, or similar meeting which is conducted on board a cruise ship.

In addition, it would be made clear that the foreign convention provisions do not apply to normal business meetings for employees of a company.

Foreign convention--North American area

Under the proposal, a convention would not be treated as a foreign convention unless it were held outside the United States, its possessions, and the Trust Territory of the Pacific, and Canada and Mexico.

Subsistence expense limitation

Under the proposal, the special subsistence expense limitation under present law would be repealed. As for any other business expenses, expenditures for amounts which are lavish and extravagant would continue to be nondeductible.

Transportation expenses

Under the proposal, the special coach fare limitation for transportation expenses would be repealed. As for any other travel expenses, the principal purpose for making the trip must be for business purposes for transportation expenses to be deductible.

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Special reporting requirements

Under the proposal, the special reporting and substantiation requirement for foreign conventions would be repealed.

Revenue effect

It is estimated that enactment of this legislation would have a negligible revenue effect.

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