

No Deduction for Commuting to a Temporary Worksite

Cross References

- *Saunders*, T.C. Memo. 2012-200, July 17, 2012

Under the general rule, the cost of commuting between the taxpayer's residence and place of business is a nondeductible personal expense. There are various exceptions to this general rule.

- 1) Expenses incurred in commuting between a taxpayer's residence and a place of business may be deductible if the residence is the taxpayer's principal place of business.
- 2) Expenses incurred in commuting between a taxpayer's residence and a place of business may be deductible if the work location is a temporary location and the taxpayer also has one or more regular work locations away from the taxpayer's residence.
- 3) Expenses incurred in commuting between a taxpayer's residence and a place of business may be deductible if the work location is a temporary location and is outside of the metropolitan area where the taxpayer lives and normally works.

A taxpayer performed construction services as an employee of a construction business located in Cincinnati, Ohio. For the year in question, the taxpayer did not report to his employer's office in Cincinnati, but rather traveled from his home in Manchester, Ohio to five temporary worksites. None of the jobs lasted more than a few months. The temporary worksites ranged in distance from 74 to 96 miles from the taxpayer's residence. Each day the taxpayer drove directly from his residence to a worksite, and at the end of the workday, drove directly home. The IRS disallowed deductions claimed for commuting expenses to these temporary work locations.

The Court had to consider whether or not any of the exceptions to the general commuting rule applied in this case. The first exception did not apply because the taxpayer did not use his residence for business.

The second exception did not apply because there was no evidence presented to the court, and the taxpayer did not claim that he had any regular work location during the year in question. All of his work locations were temporary locations.

Author's Comment

Had the taxpayer driven to his employer's work location in Cincinnati for business on a regular basis, the second exception could have applied.

Under the third exception, the Court acknowledged that the term "metropolitan area" is ill defined for this purpose. The Court has ruled in the past that rather than adopt a rigid test (such as a set mileage range), the Court must consider the facts and circumstances

in deciding whether particular travel expenses are incurred in traveling to a worksite unusually distant from the area where the taxpayer lives and normally works.

In this particular case, the taxpayer testified that “my main area is Cincinnati—Cincinnati metropolitan area.” No evidence was presented to establish that any of the temporary worksites where he worked should be considered to be outside the Cincinnati metropolitan area. Thus, the Court ruled the taxpayer did not meet the third exception and disallowed the taxpayer’s commuting expenses.

Author’s Comment

74 to 96 miles is not necessarily too short a distance to be considered “out-of-town” travel. The Court noted in a footnote that the temporary worksites were located in Warren County, Ohio, which is part of the Cincinnati metropolitan statistical area, according to certain government documents. However, the taxpayer’s residence was in Adams County, Ohio, which is not included in the Cincinnati metropolitan statistical area, according to those same government documents. But because of the taxpayer’s own testimony that he normally worked in the Cincinnati metropolitan area, the taxpayer failed to show that any of his claimed commuting expense related to work locations outside the metropolitan area where he lived *and* normally worked.