

INTERNAL REVENUE SERVICE

Section 162 – Trade or business expenses

Section 105 – Amounts received under accident and health plans

162.00-00 – Trade of Business (Deductible vs. Not Deductible)

162.07-00 – Compensation

162.07-02 – Relatives

105.00-00 – Accident and Health Plans (Excluded vs. Not Excluded)

Taxpayer's Name: ***

Taxpayer's Address: ***

Taxpayer's ID Number: ***

Year Involved: ***

No Conference Held: ***

LEGEND:

A= ***

B=***

ISSUES:

- (1) Whether A, a sole proprietor, is entitled to deduct under section 162(a) of the Internal Revenue Code amounts paid to B, A's spouse and employee, as reimbursement of medical expenses under an employer-provider accident or health plan.
- (2) Whether amounts B receives as reimbursement of expenses that B incurs on behalf of B, A, and their dependents are excluded from B's gross income under section 105(b).

FACTS:

A operates a consulting business as a sole proprietor and employs B, A's spouse, to perform certain services in connection with the business. B receives compensation for the services B performs and includes the compensation in gross income on the couple's jointly filed federal income tax return. A adopted a written employer-provided accident and health plan that, by its terms, covers all employees of A's business. During the year in question, A reimbursed B, pursuant to the plan, for the expenses of medical care that B incurred on behalf of B, A, and their dependents. You agreed that there is a bona fide employer-employee relationship between A and B.

LAW:

Section 162(a) of the Code allows a deduction for all ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business, including reasonable salaries and other compensation for services rendered.

Section 213(a) of the Code allows a deduction for the expenses paid during the taxable year, not compensated by insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, or a dependent, to the extent that such expenses exceed 7.5% of the taxpayer's adjusted gross income. The term "medical care" is defined in section 213(d).

Rev. Rule 71-588, 1971-2 C.B. 91, holds, that amounts paid by a sole proprietor to his spouse, a bona fide employee of the business, under an accident and health plan covering all employees, are (1) excludable from the employee-spouse's gross income under section 105(b) of the Code and (2) deductible by the employer-spouse as a business expense under section 162(a).

CONCLUSION:

Applying the law to the facts of the present case, the amount paid to B under the plan as reimbursement for, medical expenses are deductible by A as a business expense under section 162(a) of the Code. Further, B may exclude these amounts from gross income under section 105(b).

A copy of this advice memorandum is to be given to the taxpayer. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.