



Tax Reduction Letter

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Private Letter Ruling 8124144

This is in reply to your letter of *** in which you request a ruling regarding expenses incurred for your children's care. You state that you are a professional who is married. We assume from your letter that your wife is not employed. You have two children ages 4 and 6. Periodically in connection with your work, you and your wife entertain clients, potential clients and their spouses. In such instances it would not be appropriate for your children to attend. You ask for a ruling as to the deductibility of the child care expenses incurred while you and your spouse are entertaining business clients. In the alternative, you inquire whether you are eligible for a child care credit under section 44A of the Internal Revenue Code.

Section 162 of the Code provides that there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business.

Section 262 of the Code states, except as otherwise provided, no deduction shall be allowed for personal, living, or family expenses.

As to the deduction of child care expenses under section 162 of the Code, it is clearly established that except to the extent Congress provided in section 44A of the Code, child care expenses are nondeductible personal expenses. See Thomas A. O'Rielly, T.C.M. 1974-261.

Section 44A of the Code provides that an individual who maintains a household for a qualifying individual shall be allowed as a credit, against his or her taxes, an amount equal to 20% of employment-related expenses. Dependent children, under the age of 15 with respect to whom the taxpayer is entitled to a deduction, are qualifying individuals.

Section 44A(c)(2) provides, in pertinent part, that employment-related expenses are amounts paid for the care of a qualifying individual, but only such expenses as are incurred to enable the taxpayer to be gainfully employed.

Section 44A(e)(1)(B) of the Code states that the amount of employment-related expenses incurred during any taxable year shall not exceed, in the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income of his spouse for such year. Accordingly, as your wife has no earned income, no credit for child care expenses may be taken.

A copy of this ruling should be attached to your tax return. A copy is enclosed for this purpose.

This ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent.

Anthony Manzanares, Jr.

Chief, Individual Income Tax Branch