

Revenue Ruling 84-55

Business expenses; travel abroad; continuing education conferences. Expenses incurred in connection with a university's continuing education program that combines foreign travel with attendance at brief education-oriented conferences are nondeductible, personal expenses, except to the extent that they are for registration fees and any other expenses incurred that are directly attributable and properly allocable to the taxpayer's trade or business, subject, where applicable, to the provisions of sections 274(d) and 274(h) of the Code.

ISSUE

Are expenses for overseas travel in attending a "continuing education program" deductible under section 162 of the Internal Revenue Code under the factual situation set forth below?

FACTS

A taxpayer, a salesperson in a large corporation, is a member of a local university's alumni association. The university, through a travel agency, arranges trips by airline to more than 22 foreign countries for members of its alumni association. The university represents that the trips are part of a continuing education program and that the academic exercises and conferences it sets up are designed to acquaint individuals in most occupations with selected facilities in several regions of the world. However, none of the conferences are directed toward specific occupations or professions, and it is up to the initiative of each participant to seek out specialists and organizational settings appropriate to their occupational interests. The stated aim of the program is to improve and enhance the human relations and professional skills required of individuals in their work settings. The objectives of the program include increased self-understanding, understanding of others, and increased awareness of the factors which promote or inhibit interpersonal effectiveness in business, professional, educational and organizational settings. The participants may attend by themselves, or with friends or families.

Three-hour sessions are held each day over a five-day period at each of the selected overseas facilities where participants can meet with individual practitioners. These sessions are composed of a variety of activities, including workshops, mini-lectures, role playing, skill development, and exercises. Professional conference directors schedule and conduct the sessions. Participants are free to choose those sessions they wish to attend.

The taxpayer's spouse and two minor children accompanied the taxpayer. The taxpayer spent approximately two hours at each of the planned sessions, and the remainder of the time touring and participating in recreational and sight-seeing activities with the family. The trip lasted less than one week.

LAW AND ANALYSIS

Section 162(a) of the Code allows as a deduction ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business.

Section 262 of the Code, provides, with exceptions not here material, that no deduction is allowed for personal, living, or family expenses.

Section 1.162-2(a) of the Income Tax Regulations provides that only such traveling expenses as are reasonable and necessary in the conduct of the taxpayer's business and directly attributable to it may be deducted. If the trip is undertaken for other than business purposes, the travel fares and expenses incident to travel are personal expenses and the meals and lodging are living expenses. If the trip is solely on business, the reasonable and necessary traveling expenses, including travel fares, meals and lodging, and expenses incident to travel, are business expenses.

Under section 1.162-2(b)(1) of the regulations, if a taxpayer travels to a destination and while at such destination engages in both business and personal activities, traveling expenses to and from such destination are deductible only if the trip is related primarily to the taxpayer's trade or business. If the trip is primarily personal in nature, the traveling expenses to and from the destination are not deductible even though the taxpayer engages in business activities while at such destination. However, expenses while at the destination that are properly allocable to the taxpayer's trade or business are deductible even though the traveling expenses to and from the destination are not deductible.

Section 1.162-2(b)(2) of the regulations provides that whether a trip is related primarily to the taxpayer's trade or business or is primarily personal in nature depends upon the facts and circumstances in each case. The amount of time during the period of the trip that is spent on personal activities compared to the amount of time spent on activities directly relating to the taxpayer's trade or business is an important factor in determining whether the trip is primarily personal.

Section 1.162-2(d) of the regulations provides that expenses paid or incurred by a taxpayer in attending a convention or other meeting may constitute an ordinary and necessary business expense depending upon the facts and circumstances of each case. No distinction will be made between self-employed persons and employees. The allowance of deductions depends upon whether there is a sufficient relationship between the taxpayer's trade or business and attendance at the convention so that the taxpayer is benefiting or advancing the interests of the trade or business by such attendance.

Section 1.162-5(e)(1) of the regulations provides that if an individual travels away from home primarily to obtain * education, the expenses of which are deductible under this section, the taxpayer's expenditures for travel, meals and lodging while away from home are deductible. However, if as an incident of such a trip the individual engages in some personal activity such as sightseeing, social visiting, or entertaining, or other recreation, the portion of the expenses attributable to such personal activity constitutes nondeductible personal or living expenses and is not allowable as a deduction. If the individual's travel away from home is primarily personal, the individual's expenditures for travel, meals and lodging (other than meals and lodging during the time spent in participating in deductible education pursuits) are not deductible. Whether a particular trip is primarily personal or primarily to obtain education the expenses of which are deductible under this section depends upon all the facts and circumstances of each case. An

important factor to be taken into consideration in making the determination is the relative amount of time devoted to personal activity as compared with the time devoted to educational pursuits. The rules set forth in this paragraph are subject to the provisions of section 162(a)(2), relating to deductibility of certain traveling expenses, and sections 274(c) and (d), relating to allocation of certain foreign travel expenses and substantiation required, respectively, and the regulations thereunder.

Section 274 (h) of the Code provides for the disallowance of travel expenses incurred to attend a convention, seminar, or similar meeting outside the North American area unless the taxpayer establishes that the meeting is directly related to the active conduct of the taxpayer's trade or business and that, after taking into account certain specified factors, it is as reasonable for the meeting to be held outside the North American area as within the North American area.

In determining allowable deductions with respect to attendance at a foreign convention, the business purpose test of section 162 of the Code is a threshold test. If the convention trip is related primarily to the taxpayer's trade or business, then travel, transportation and subsistence expenses are deductible, provided it was as reasonable to hold the convention outside the North American area as within the North American area. If the nature of the trip is primarily personal, no deduction is allowable under section 162 for travel and transportation costs; however, those subsistence expenses that are properly allocable to the taxpayer's trade or business are deductible, subject to the provisions of section 274(h).

In this case, applying the principles described above, the fact that the taxpayer attended a continuing education program did not convert what was in all other respects a vacation into a business trip. The expenses incurred are not materially different from those reasonably incurred by any other tourist on a sight-seeing trip abroad. See *Kadivar v. Commissioner*, T.C. Memo 1973-95, 32 T.C.M. 427 (1973), and *Gino v. Commissioner*, 60 T.C. 304 (1973) rev'd on another issue, 538 F.2d 833 (9th Cir. 1976), cert. denied 429 U.S. 979 (1976). The arrangements for the trip did not differ from those of any vacation or recreational trip. The taxpayer was accompanied by the taxpayer's spouse and children, and the major portion of the taxpayer's time was spent on personal, recreational, and sight-seeing activities. See Rev. Rul. 79-425, 1979-2 C.B. 81, which reaches a similar nondeductible conclusion regarding a taxpayer attending, six brief sessions of a ten-day annual convention of a local professional association held in a foreign country; and Rev. Rul. 74-292, 1974-1 C.B. 43, which reaches a similar nondeductible conclusion regarding a taxpayer attending six brief professional seminars held abroad during the 14-day trip.

HOLDING

The taxpayer's expenses for the trip are not deductible under section 162 of the Code, except to the extent they are for registration fees and any other expenses incurred by the taxpayer that are directly attributable and properly allocable to the taxpayer's trade or business, subject, where applicable, to the provisions of section 274(h) and section 274(d).