



NEW YORK STATE
Unified Court System

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****** TIME SENSITIVE TAX REPORTING INFORMATION ******

TO: Holders of the Financial Planning and Control Manual

SUBJECT: Reporting of Travel & Lodging Expenses - Employees with Two or More Work Locations

We have been informed by the Office of the State Comptroller that recent OSC audits have revealed a serious concern in tax reporting of travel and lodging expenses by State officers and employees who have two or more work locations. This includes judges and court staff who are stationed at one court chambers, but frequently travel to another court to perform court business. This issue may have substantial tax consequences for those travelers for the tax years 2009, 2010, 2011, and 2012.

As described by the Comptroller's Office, based on its assessment of the requirements of the Internal Revenue Code, untaxed reimbursement of costs of travel, meals and lodgings at the travel location is appropriate so long as the travel location is not the primary or "tax home" workplace of the officer or employee. However, if the officer/employee spends more days working at the travel location than at any other work location in a calendar year, the IRS will most likely treat the travel location as the "tax home" – and reimbursement for travel, meals, and lodgings at that travel location must be declared as taxable income to the officer/employee. (Below is a link to IRS Publication 463(2012) Travel, Entertainment, Gift and Car Expenses.)

<http://www.irs.gov/publications/p463/ch01.html>

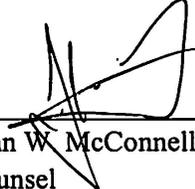
For example, judges and employees who regularly travel from a local chambers to an Appellate Division courthouse for work purposes may be reimbursed for travel, meal, and lodging expenses at the Appellate Division without tax consequence – so long as the number of days spent at the Appellate Division does not exceed the number of days spent working at the local chambers. (We have been informed that work by judges at home—for example, review of briefs for an appreciable period of time on weekends—might be credited as time spent at the local chambers for tax purposes.) However, if more days are spent at the Appellate Division courthouse than at the local chambers in any calendar year, the Appellate Division location will most likely be treated as the judge’s or employee’s tax home, and all payments for travel, meals, and lodging must be treated as taxable income in that year.

As you may know, the Unified Court System, unless otherwise advised, treats judges and employees who seek travel reimbursement as resident in their local chambers for tax purposes. As a result of the Comptroller’s communications on this issue, we thought it appropriate to recommend that all judges and staff who received substantial reimbursements for travel and lodging in 2009, 2010, 2011, or 2012 (1) carefully review attendance location records in each of those years; (2) discuss this issue with their accountant or tax advisor; and, (3) in the event that travel practices indicate that the “tax home” shifted to the Appellate Division courthouse, notify the Court’s administrative officer immediately. If we receive notice of such a “tax home” shift, we are required to notify the Comptroller’s Office, and an amended W-2 form will be issued reflecting this information. Because only a few weeks remain within which to issue an amended W-2 for the 2009 tax year, we ask that officers/employees who may be affected perform a review of that year expeditiously, and provide us with any relevant information as soon as possible **(but no later than March 20, 2013)**.

Please note that the “tax home” issue is quite complex and fact-specific, and defies summary treatment. If travel records give rise to any concern on the subject, we strongly recommend that the affected officer/employee address the issue with his or her accountant or tax professional without delay.

Please ensure distribution of this bulletin to all personnel within your respective jurisdictions who are responsible for the processing or the monitoring of internal controls relating to business-related travel reimbursements.


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