

MEMORANDUM

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To: Annual Conference Treasurers
Interested Parties

From: GCFA Legal Department

Re: Income Tax Treatment of Spousal Travel Expenses

Date: September 2001

In most instances, spousal travel expenses are not considered deductible business expenses. An employer's reimbursement of spousal travel expenses would generally be considered compensation and, therefore, taxable income to the employee.

However, in some **very** limited instances, spousal travel expenses could be considered a business expense, a working condition fringe benefit, or possibly even a charitable contribution.

Business Expense: Section 274(m)(3) of the Internal Revenue Code provides that an employer can pay for spousal travel as a business expense so long as the traveling spouse: (1) would otherwise have been able to deduct the expenses, (2) must have traveled for a bona fide business purpose and (3) is an employee of the reimbursing employer. The employer's payment of the business expense, of course, would not be taxable income to the employee. However, unfortunately for tax purposes, in most cases the traveling spouse is not an employee of the church, and therefore such payment may be taxable income.

Example: A church pastor and his spouse travel to a church convention in another city. The convention offers the pastor significant business-related activities, such as participation in meetings, workshops, lectures and exhibits. The spouse also works for the church as its Christian education director. She is attending the convention in order to present a workshop for other leaders in Christian education. Both the pastor and his spouse's expenses are business expenses that can be reimbursed by the church with no reportable income.

Example: Same facts as above except that rather than presenting a workshop, the spouse plans to attend several scheduled spouse meetings, as well as take in the sights of the city. Without a bona fide work-related purpose for having the spouse travel to the convention, the reimbursement of the spouse's expenses would be considered taxable compensation rather than payment of a business expense. As compensation, the amount must be reported in Box 1 of the W-2. For lay staff, the church would pay withholding and FICA.

Working Condition Fringe Benefit: Treasury Regulation 1.132-5(t) which clarifies IRC Section 274(m)(3). This regulation provides that even if reimbursement of spousal travel does not qualify as a business expense, it may qualify as a nontaxable working condition fringe benefit. A working condition fringe benefit is an expense paid by an employer which an employee could have written off had the employee paid the expense directly. Examples of these benefits are job training, educational assistance programs, meals that are provided for the convenience of the employer and employer-provided vehicles used for business.

Under the regulations, reimbursement of spousal travel expenses qualifies as a nontaxable working condition fringe benefit only if all of the following conditions are met: (1) the employer has not treated the reimbursement as compensation; (2) the spouse's presence is for a legitimate business purpose; and (3) the employee substantiates the expenses under an accountable reimbursement arrangement.

To determine whether the spouse's presence is for a legitimate business purpose, consider whether that individual's travel would be reimbursed even if he or she were not a spouse. Consider whether the spouse is participating in meetings, workshops, lectures, exhibits or other activities that have business value to the church and which would regularly be at the church's expense, regardless of the marital relationship.

Example: A church employee attends an out-of-town church convention with her spouse. The spouse is not an employee of the church, but was selected by the church as an official delegate to the convention. The spouse attends business meetings with the employee and votes on issues raised. The couple's travel expenses are substantiated pursuant to an accountable reimbursement plan and are fully reimbursed by the church. The church does not treat the reimbursement as compensation, the spouse's travel is for a legitimate business purpose, and the expenses are properly substantiated pursuant to an accountable plan. Therefore, the spousal travel reimbursement is not taxable income, but rather it is a nontaxable working condition fringe benefit.

Example: Same facts as above except that the church advances the employee \$500 for the couple's travel expenses. No substantiation of expenses is required by the church. Because of the failure to require substantiation, the full amount of the advance should be recorded as income on the employee's W-2. However, the employee can deduct her travel expenses as an itemized deduction on Schedule A. The travel expenses incurred for her spouse are not deductible on Schedule A, but may qualify as a charitable contribution as discussed below.

Charitable Contribution: If the spouse's travel expenses are not reimbursed or deductible as a business expense or working condition fringe benefit, they still may be considered a deductible charitable contribution. Treasury Regulation 1.170A-1(g) provides that expenses incurred in providing services to a charitable organization may constitute a deductible contribution. The value of the services cannot be deducted, but the unreimbursed expenses incurred while

contributing the labor generally can. So, if the spouse is contributing labor and incurred reasonable out-of-pocket transportation, meal and lodging expenses in order to do so, those expenses can be deducted from taxable income. In order to make use of the charitable contribution as a deduction, of course, the taxpayer must file Schedule A for itemized deductions.

Example: A church employee and his spouse travel to annual conference. The employee attends the meeting. The spouse is an architect and volunteers with the planning of several new homes for a church-organized project in the city where the meeting is being held. Her reasonable, unreimbursed travel, lodging and meal expenses (but not the contribution of her time and expertise) probably can be deducted from her income as a charitable contribution.

Compensation: In **most** instances, an employer's payment for spousal travel expenses are considered to be compensation and, therefore, taxable income to the employee. The taxable income is the additional cost incurred due to the spouse's travel.

Example: A church employee travels to another city to attend a religious meeting. His spouse comes along but is not an employee of the church and has no official duties of her own at the meeting. The church reimburses the couple's substantiated travel expenses. Their expenses were \$200 for lodging (a hotel room for one person would have cost only \$150), \$85 for a rental car (the spouse did not use the rental car alone), \$500 for two airline tickets and \$110 for meals (the spouse's portion was \$45). The portion of those expenses attributable to having the spouse on the trip was only \$50 for lodging, \$250 for the airline tickets and \$45 for meals. Therefore, the employee will have \$345 in taxable income for the employer's reimbursement of the spouse's portion of the travel expenses.

This memorandum explores the income tax aspects of spousal travel expenses. Other aspects of spousal travel are not addressed here. The General Council on Finance and Administration is not engaged in providing legal, tax or accounting advice or services. Please consult a competent local attorney for legal advice or a tax professional for tax advice.