

Business Expenses Claimed by Employees

The Montana Department of Revenue would like to provide taxpayers with guidance on how to determine whether employee business expenses are deductible. Montana law provides that the allowable deductions are those set forth in the Internal Revenue Code. The Internal Revenue Service provides a number of resources to help a taxpayer determine whether such expenses are deductible, including:

- [Form 2106 and instructions](#)
- [Pub 535-Business Expenses](#)
- [Pub 463-Travel, Entertainment, Gift and Car Expenses](#)
- [Pub 529-Miscellaneous Deductions](#)
- [Pub 552-Recordkeeping for Individuals](#)
- [IRS Tax Tip on Employee Business Expenses](#)

Recently, the department has received questions regarding the deductibility of employee travel expenses. Travel expenses, including transportation, meals and lodging, are deductible if the taxpayer can prove the expenses are (1) incurred while away from home; (2) reasonable and necessary; and (3) incurred in the pursuit of a trade or business. If the criteria are not met, the travel expenses are nondeductible.

To determine whether the expenses were incurred "while away from home," it is necessary to determine where the taxpayer's tax home is located. The location of the taxpayer's tax home is dependent on whether his employment was temporary or indefinite. If the employment is temporary, the taxpayer's residence is considered to be the taxpayer's tax home and travel expenses may be deductible. In contrast, if the taxpayer's employment is indefinite, the vicinity of the taxpayer's principal place of business is considered to be the taxpayer's tax home and travel expenses are generally nondeductible.

The determination of the location of a taxpayer's tax home is currently pending before the Montana Supreme Court. A more detailed analysis of issues relating to tax home is set forth in the Appellee Brief the department filed in this case.

The Department of Revenue reminds individuals claiming these deductions to maintain good records. It is important to keep the appropriate documents including receipts and logs and to provide them to the department when requested.

Additionally, the department also wants to make Montana residents working in North Dakota aware of the "Montana/North Dakota Reciprocal Agreement." This agreement may simplify the tax filings of wage earners by exempting them from North Dakota wage withholding and allowing them to file just one state tax return with Montana rather than one with Montana and one with North Dakota. Please refer to these FAQs for more information.