

Travel Expenses and Per Diem Update for 2008

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When pilots are flying the line, they are always on business travel, and as such, their qualifying travel expenses are deductible--as ordinary and necessary business expenses. This article reviews the federal rules for U.S. pilots regarding the taxation and deductibility of travel expenses, including per diem reimbursements, for the 2008 tax year (for which individual tax returns are due, generally, by April 15). For the benefit of your tax advisors, the official rules for tax year 2008 are set forth in IRS Revenue Procedure 2008-59. General information is also contained in IRS Publication 463, Travel, Entertainment, Gift, and Car Expenses, and IRS Publication 1542, Per Diem Rates. These documents are available on the Internet at www.irs.gov.

Many of ALPA's collective bargaining agreements provide that the airline will pay each pilot a fixed amount, often called "per diem," to cover meals and incidental expenses that pilots incur while on a trip. When an airline makes these per diem payments (or otherwise reimburses pilots for travel expenses), the airline may *exclude* all or a portion of the per diem payments or reimbursements from pilots' taxable income reported on Form W-2. The amount excluded depends on whether the amount paid exceeds the federal per diem rates or special per diem rates that apply to the transportation industry. Frequently, the amount of the per diem the airline pays or reimburses is not enough to cover reasonable business travel expenses; and in those cases, pilots may be entitled to claim an itemized deduction for the expenses not covered. If a pilot receives no per diem payments or reimbursements from the employer, or receives per diem payments that the airline includes in taxable income, the pilot may be entitled to claim an itemized deduction for expenses incurred while on business travel.

Expenses for “overnight trips”

For travel expenses either to be *excluded* from taxable income or to be claimed by a pilot as an *itemized deduction*, expenses must be incurred while on a business trip that requires sleep or rest (an “overnight trip”). Expenses incurred on trips that are not overnight trips do not satisfy this requirement. For pilots, the expenses at issue are usually meal and incidental expenses, because the airline invariably pays for lodging directly or reimburses for it separately.

Substantiating expenses

Recognizing the burden of requiring pilots to actually substantiate expenses, the IRS provides that a designated amount of expenses relating to overnight trips may be *deemed* substantiated. For amounts deemed substantiated, pilots need not maintain any records of the amounts actually spent while on the trip.

If the employer pays for lodging separately, the designated amount of expenses for meal and incidental expenses (M&IE) that is deemed substantiated is equal to the amount the federal government would pay its own employees for M&IE when they travel to the same locality. The federal government publishes M&IE rates for every locality in the world.

The M&IE rates may be obtained via the Internet.

The CONUS (for *C*ontinental *U*nited States) rates can be found at www.gsa.gov, where you can also find a link to the OCONUS (for *O*utside CONUS) rates. The OCONUS rates are also available at <http://perdiem.hqda.pentagon.mil/perdiem/>.

Itemized deductions

Most airlines exclude per diem payments from a pilot's taxable income to the maximum extent legally permissible. If a pilot has business travel expenses that the employer did not reimburse, the pilot may claim those expenses as an itemized deduction on his or her tax return. A pilot who claims this itemized deduction must complete Form 2106, "Employee Business Expenses," which, along with all other IRS forms and publications, may be obtained on the IRS website at www.irs.gov or by calling the IRS at 1-800-TAXFORM.

To claim any business travel expense as an itemized deduction, a pilot must be able to substantiate the time, place, and business purpose of the business travel, as well as the amount of the expense. The time, place, and business purpose must be substantiated with actual records, such as a pilot's logbook. The amount of the business expense must also be substantiated; but in the case of business meals and incidental expenses, the amount may be *deemed* substantiated (no written records will be required) by using the federal M&IE rates. Other business travel expenses must be substantiated with records. (If the expense is less than \$75, the IRS will not require a receipt to substantiate the amount spent on any single purchase, such as a single meal expense; but this rule does not apply to lodging expenses, for which receipts are necessary even if the expense is less than \$75).

Only 80 percent of the amount deemed substantiated is deductible in 2008, and then only to the extent that a pilot's aggregate miscellaneous itemized deductions (including business expenses) exceed 2 percent of the pilot's adjusted gross income. Note that union dues constitute deductible employee business expenses and count toward the 2 percent adjusted gross income threshold.

Special rates for the transportation industry

The IRS provides for special transportation industry rates that simplify the CONUS and OCONUS rates. For 2008, the transportation industry rate is \$52 for the CONUS and \$58 for OCONUS. Pilots may use these rates for calculating the tax deduction under the deemed substantiation method for all CONUS and/or all OCONUS travel in 2008. A pilot who uses these rates will have additional flexibility in prorating for partial days of travel by using either 75 percent of the rate or any other reasonable method consistently applied. If a pilot uses these special rates, the deduction may be somewhat less than if the standard M&IE rates are used, especially if the pilot usually travels to higher-cost or international destinations.

Obtain competent tax advice

As with most matters concerning taxes, the federal law governing the taxation of pilots' expenses and per diem payments is complex and can sometimes be confounding. ALPA does not provide tax advice to individual members, and, therefore, all pilots are urged to obtain competent tax advice about applying to their own situations the information presented in this article.