

Spousal Travel & Taxes

Upon the advice of ISACS counsel, Leo Athas et. al., ISACS advises school heads to ask their boards to set policy level guidelines and expectations for spouses, to ensure that their accompanying of heads to conferences and workshops has a school-related purpose and is therefore not taxable as income. The advice of counsel follows:

The question of whether the spouse of a Head, whose travel expenses are paid by a member school, would be considered to have reportable and therefore taxable income. We feel that under the proper factual circumstances that such costs when paid by the member school would not be income to the spouse (or the spouse's family). While it may be argued that this is a valuable benefit and technically to the spouse would be considered income, it can also be argued that the spouse of a Head can serve a bona fide business purpose.

The Internal Revenue Code Section 274 (M) (3) clearly does not allow a deduction for travel expenses paid or incurred with respect to a spouse, unless the travel of the spouse is for a bona fide business purpose. The bona fide business purpose test would arguably be met if: 1.) the spouse's presence helped the Head to promote the public image of the school (this must be in an active role), 2.) he/she must cultivate business relationships, 3.) the school as employer must require that the spouse attend the function, 4.) that the spouse was clearly assisting the Head with his/her duties serving the school, and 5.) that there were organized educational aspects to the spouse's attendance, and that the spouse attended these functions.

Therefore, the functions of the spouse attending functions as required, representation of the school, assisting the Head to carry out his/her duties as the schools administrator and representative are cumulative in showing that the test has been met. The business purpose test has been held not to have been met where a spouse's attendance was not active, or limited to a few events, such as organizing buses for a planned shopping trip, a baseball game, or in manning a registration booth.

We feel that the best way to meet the business purpose test would be to have as much active spousal interaction as possible, such as attending seminars, providing information to attendees about the member school, holding a number of organized educational events, etc. with the provision for a defined active role for the spouse at such events by the school's Board of Trustees. The key here, is to prove a legitimate business purpose for the spouse's presence by giving the spouse as much participation as possible, once this is complete, we feel the proof requirements for a legitimate business purpose would be met. Please contact the undersigned should you require any further information or have any additional questions.

Author: Vernon Kowal. Athas, Foley, Kowal & Bridge CHTD. Thirty North La Salle Street, Suite 3400, Chicago, IL 60602, 800-515-4273