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IT-352R2 - Employee's Expenses, Including Work Space in Home Expenses

INTERPRETATION BULLETIN

SUBJECT : INCOME TAX ACT DATE: August 26, 1994
**Employee's Expenses,
Including Work Space in
Home Expenses**

NO: **IT-352R2**

REFERENCE:

Subparagraphs 8(1)(i)(ii) and 8(1)(i)(iii) (also subsections 8(2), 8(10) and 8(13), paragraphs 8(1)(f) and 8(1)(l.1) and the definition of "self-contained domestic establishment" in subsection 248(1))

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Application

This bulletin cancels and replaces Interpretation Bulletin IT-352R dated May 30, 1989.

Summary

This bulletin discusses the circumstances under which a taxpayer may deduct amounts paid

in the year for office rent, supplies and salary to an assistant or substitute in computing income from an office or employment. It also discusses the rules applicable to the deductibility of rent and supplies, as well as commission sales employee expenses, when such expenses relate to a work space in a home that is used to earn office or employment income. Power saw expenses are also briefly mentioned. Finally, the bulletin deals with the requirement for a taxpayer to provide certification from his or her employer that the conditions for deducting certain expenses have been met.

Discussion and Interpretation

General

1. Subject to certification by the employer (see 13 below), subparagraphs 8(1)(i)(ii) and (iii) allow a taxpayer, in computing income for a taxation year from an office or employment, to deduct amounts paid in the year as expenses for office rent, supplies and salary to an assistant or substitute. These expenses are deductible provided the following requirements are met:

- (a) the taxpayer is required by the contract of employment to pay for such office rent or salary, or to provide and pay for such supplies;
- (b) the taxpayer has not been reimbursed and is not entitled to reimbursement for such expenses;
- (c) these expenses may reasonably be regarded as applicable to the earning of income from the office or employment; and
- (d) in the case of supplies, they are consumed directly in the performance of the taxpayer's duties of the office or employment.

Ordinarily, (a) above necessitates that there be an express requirement within the terms of a written contract of employment. Nevertheless, such a requirement for the payment of office rent, supplies or salary to an assistant or substitute may exist where the taxpayer can establish that it was tacitly understood by both parties (the taxpayer and the employer) that such payment was to be made by the taxpayer and was, in fact, necessary under the circumstances to fulfill the duties of the employment.

Work Space in Home

2. By virtue of subsection 8(13), expenses **otherwise deductible under paragraph 8(1)(f) or 8(1)(i)** (see 5 to 7 below), that relate to any part (hereinafter referred to as the "work space") of a self-contained domestic establishment in which an individual resides, may be deducted only under certain circumstances and within certain limits in computing the individual's income from an office or employment for a taxation year. In order to deduct such expenses, the work space must either be:

- (a) the place where the individual principally (more than 50% of the time) performs the office or employment duties, or
- (b) used exclusively during the period to which the expenses relate to earn

income from the office or employment and, on a regular and continuous basis, for meeting customers or other persons in the ordinary course of performing the office or employment duties.

Where the individual meets the test in either (a) or (b) above, he or she will be able to deduct the expenses related to the work space only to the extent they do not exceed the income for the year from the office or employment as determined before deducting these expenses. Thus, such expenses cannot create or increase a loss for income tax purposes from the office or employment.

3. The expenses related to a work space that cannot be deducted in a taxation year because they would create or increase a loss from an office or employment will be deemed, by virtue of paragraph 8(13)(c), to be expenses related to a work space in the immediately subsequent taxation year in respect of the same office or employment. In that immediately subsequent taxation year,

(a) these expenses carried forward, and

(b) provided that the test in 2(a) or (b) above is met, any further actual expenses paid in that year related to a work space in respect of the same office or employment (and that are otherwise deductible under paragraph 8(1)(f) or 8(1)(i))

may be deducted to the extent they do not create or increase a loss from the office or employment. Again, any excess is carried forward to the next year. Thus, an indefinite carry-forward is provided until these expenses can be deducted in computing income from the same office or employment.

4. The expression "self-contained domestic establishment" (hereinafter referred to as a "home") is defined in subsection 248(1) as a dwelling-house, apartment or other similar place of residence in which place a person as a general rule sleeps and eats.

5. Regardless of whether the individual owns or rents the home, the work space expenses otherwise deductible as "supplies" under subparagraph 8(1)(i)(iii) consist of a reasonable proportion (as discussed in 7 below) of expenses paid by the individual for the maintenance of the home, such as the cost of fuel, electricity, light bulbs, cleaning materials and minor repairs. If the work space is part of a home **rented** by the individual, a reasonable proportion of the rent is otherwise deductible under subparagraph 8(1)(i)(ii). However, no deduction can be made for the rental value of the work space area in a home **owned** by the individual.

6. Pursuant to subsection 8(2), expenses which are not permitted by section 8 cannot be deducted in computing income from an office or employment. Consequently, for an individual who is not a commission sales employee described in paragraph 8(1)(f), expenses on account of capital cost allowance, taxes, insurance and mortgage interest cannot be deducted. For a commission sales employee who is entitled to claim expenses under paragraph 8(1)(f), a reasonable proportion of the taxes and insurance paid on a home owned by the individual is otherwise deductible under that paragraph, in addition to the expenses listed in 5 above. However, no mortgage interest or capital cost allowance can be deducted.

7. For purposes of determining the proportion of the expenses referred to in 5 and 6 above that is otherwise deductible, these expenses should be apportioned between the employment (i.e., work space) use and the non-employment use of the home on some reasonable basis, such as square metres of floor space used. However, the reasonable basis should also take

into consideration the personal use, if any, of the work space if it is one described in 2(a) above. Using such an allocation method, for example, if the work space area is 10% of the total floor space of the home, but the use of the work space is 60% employment and 40% personal, then 6% (i.e., 60% of 10%) of the total fuel expense for the home would be the amount of fuel expense that is otherwise deductible under subparagraph 8(1)(i)(iii).

8. The rules in subsection 8(13), as discussed in 2 and 3 above, are applicable to the 1991 and subsequent taxation years.

Supplies

9. The word "supplies" as used in subparagraph 8(1)(i)(iii) is limited to materials that are used up directly in the performance of the duties of the employment. In addition to certain expenses related to a work space in a home, as explained in 5 above, supplies will usually include such items as

- (a) the cost of gasoline and oil used in the operation of power saws owned by employees in woods operations;
- (b) dynamite used by miners;
- (c) bandages and medicines used by salaried doctors;
- (d) telegrams, long-distance telephone calls and cellular telephone airtime that reasonably relate to the earning of employment income; and
- (e) various stationery items (other than books) used by teachers, such as pens, pencils, paper clips and charts.

The deduction of the cost of such supplies is subject to the requirements in 1 above but is not subject to the rules in subsection 8(13), since those rules only apply to expenses related to a work space in a home.

10. Supplies, as used in subparagraph 8(1)(i)(iii), will not include:

- (a) the monthly basic service charge for a telephone line;
- (b) amounts paid to connect or licence a cellular telephone;
- (c) special clothing customarily worn or required to be worn by employees in the performance of their duties; and
- (d) any types of tools which generally fall into the category of equipment.

Salaries Paid to an Assistant or Substitute

11. Where an assistant or substitute is hired to assist the taxpayer in the performance of the employment duties, in order for the salary expense to be deductible by the taxpayer, the payment of salary by the taxpayer to the assistant or substitute must be required under the contract of employment between the employer and the taxpayer. The salary paid for an

assistant may include the cost of stenographic and secretarial assistance. A taxpayer entitled to a deduction under subparagraph 8(1)(i)(ii) for salary paid in the year is also entitled under paragraph 8(1)(l.1), as an employer, to deduct his or her share of unemployment insurance premiums and Canada or Quebec Pension Plan contributions required to be paid in respect of the assistant or substitute.

Power Saw Expenses

12. Taxpayers employed in the forestry industry, who are required by their contract of employment to provide their own power saw, may deduct the cost of the saw, in addition to the cost of operating it. The procedures to be followed for tax purposes are set out in the current version of Information Circular 74-6, *Power Saw Expenses*.

Certificate of Employer

13. In addition to the requirements outlined above, subsection 8(10) requires that an employee claiming a deduction under paragraph 8(1)(f) or subparagraph 8(1)(i)(ii) or (iii) file, with the return of income for the year, a prescribed form signed by the employer certifying that the conditions set out in that paragraph or subparagraph were met in the year for the employee. Form T2200, *Declaration of Conditions of Employment*, is the prescribed form provided for such certification. Since work space in the home expenses are deductible under paragraph 8(1)(f) or subparagraph 8(1)(i)(ii) or (iii), Form T2200 is required for an employee claiming a deduction for such expenses, although they are also subject to the rules under subsection 8(13) (as explained in 2 above).

14. If prescribed forms, receipts or other supporting documents are not filed with the return of income, such as when the return is filed electronically ("E-filed"), they should nevertheless be retained and readily available as the Department has the authority under subsection 220(2.1) of the Act to subsequently request them as proof of the claims being made or in support of the information being reported.

If you have any comments regarding the matters discussed in this bulletin, please send them to:

***Director, Technical Publications Division
Legislative and Intergovernmental Affairs Branch
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875 Heron Road
Ottawa, Ontario
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Explanation of Changes

Introduction

The purpose of the *Explanation of Changes* is to give the reasons for the revisions to an interpretation bulletin. It outlines revisions that we have made as a result of changes to the law, as well as changes reflecting new or revised departmental interpretations.

Overview

This bulletin discusses the circumstances under which a taxpayer may deduct office rent, supplies and salary paid to an assistant or substitute in computing income from an office or employment.

The bulletin has been revised to also discuss the rules applicable to the deductibility of rent and supplies, as well as commission sales employee expenses, when such expenses relate to a work space in a home that is used to earn office or employment income. These rules became law in 1991 under Bill C-18.

The comments in this bulletin are not affected by proposed amendments to the *Income Tax Act* in the February 22, 1994 Federal Budget.

References to the *Income Tax Act* are to the *Income Tax Act* as revised by the 5th Supplement to the Revised Statutes of Canada, 1985, and by S.C. 1994, c. 7 (formerly Bill C-15), both of which came into force on March 1, 1994.

Legislative and Other Changes

Throughout the bulletin, minor changes have been made for clarification or readability purposes.

The title of the bulletin has been changed to include a reference to work space in home expenses, since a significant portion of the bulletin now discusses these expenses.

[New ¶s 2 and 3](#) discuss subsection 8(13) which became law under Bill C-18 and which

- requires that either one of two situations occur in order for "otherwise deductible" expenses pertaining to a work space in the home to be deductible;
- sets a limit on the amount of these expenses that can be claimed in a particular year, in order to prevent the creation or increase of a loss; and
- contains carry forward rules for any expenses not deductible in a particular year because of the above limit.

[New ¶ 4](#) defines the expression "self-contained domestic establishment" which is used in subsection 8(13).

[New ¶s 5 and 6](#) are essentially a rewording and reorganization of former ¶s 2 and 3.

[New ¶ 7](#) explains and gives an example of how a reasonable proportion of the expenses of the home is obtained for purposes of claiming work space expenses.

[New ¶ 8](#) gives the application date of the work space rules in subsection 8(13).

[New ¶s 9 and 10](#) replace former ¶ 4. New ¶ 9 provides examples of expenses which are considered supplies for purposes of subparagraph 8(1)(i)(iii), while new ¶ 10 provides examples of expenses which are not considered supplies. These paragraphs contain the same information as former ¶ 4, except that new examples have been added.

[New ¶ 13](#) (former ¶ 7) discusses the requirement for an employee to file a certificate from the employer to the effect that the conditions for claiming expenses have been met. The paragraph has been expanded to discuss the requirement for this certificate with respect to work space in the home expenses.

[New ¶ 14](#) has been added to refer to new subsection 220(2.1). This provision was enacted by S.C. 1993, c. 24 (formerly Bill C-92) and is applicable to the 1992 and subsequent taxation years.

Former ¶ 8 was deleted since it discussed the employment expense deduction in paragraph 8(1)(a) which was repealed in 1988 under Bill C-139.



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