

Question 2: A corporation gives each of its clients a gift pack of California wines, each gift costing \$25. It gives these to 100 clients and deducts \$2,500 as gift expenses for federal income tax purposes. Are the business gifts deductible for Wisconsin tax purposes?

Answer 2: No. The entire business gift expense is not deductible because the wine is not a Wisconsin agricultural commodity.

Question 3: Assume the same facts as in question 2 except that the wine is Wisconsin wine. Are the business gifts deductible for Wisconsin tax purposes?

Answer 3: A portion of the business gift expense is deductible because the wine is a Wisconsin agricultural commodity. The amount deductible is \$1,500 (100 gifts x \$15 limit).

Question 4: A manufacturer's representative, who is an independent contractor, makes business gifts to ten customers on behalf of a corporate client. The gifts are not Wisconsin agricultural commodities and cost \$200. The independent contractor accounts to his or her corporate client and receives a reimbursement of \$150 from the corporate client. Do the Wisconsin business gift limitations apply?

Answer 4: The Wisconsin business gift limitations will apply as follows:

- a. The independent contractor is not subject to the business gift limitations because ss. 71.01(4)(a)6m.b and 71.04(2)(b)12, 1985 Wis. Stats., do not apply to individuals.
- b. The corporate client is subject to the business gift limitations and therefore, is not allowed a deduction for the \$150 reimbursement because the independent contractor accounted to the corporate client.

Part IV

BUSINESS MEALS (Sections 71.04(4)(a)6m.c, 71.04(2)(b)13 and 71.05(1)(a)27.c, 198 5 Wis. Stats.). Business meals deductible for federal tax purposes are not deductible for Wisconsin tax purposes unless they are incurred in a clear business setting. In addition, business meals incurred in a clear business setting are limited to \$25 per meal per person, including tax and gratuities. Fifty percent of the amount over the \$25 limit is also allowed as a deduction for Wisconsin tax purposes. This provision does not apply to expenses for food and beverages furnished primarily for employees on the taxpayer's premises.

Question 1: A taxpayer takes five associates to a nightclub, which includes a floor show, for dinner. A substantial business discussion occurred earlier in the day. The cost of the meal, including tax and gratuities, is \$50 per person and is deductible for federal tax purposes. The taxpayer deducts \$300 on his or her federal income tax return. What amount is deductible for Wisconsin tax purposes?

Answer 1: No deduction is allowed for Wisconsin tax purposes because the cost of the meal is not incurred in a clear business setting. The floor show represents a substantial distraction to business discussion.

Question 2: Is the computation of the excess meal expense to be made for each meal separately or can it be made on a yearly basis?

Answer 2: The computation of the excess meal expense must be made for each meal separately. For example, a taxpayer gives two business dinners during the tax year. The first business dinner is for ten people at a cost of \$50 per person. The second business dinner is for ten people at a cost of \$20 per person. The expense not deductible for Wisconsin tax purposes is \$125 computed as follows:

Cost of business meal #1	\$ 500.00
\$25 limit for 10 people	(250.00)
Excess	<u>\$ 250.00</u>
Multiply by 50%	50%
Amount not deductible for business meal #1	<u>\$ 125.00</u>

The expenses from the second business meal are deductible in full because each meal is under the \$25 limit.

Question 3: An employe, who is an outside salesperson, takes three clients out to dinner (in a clear business setting) at a cost of \$150. The employe is reimbursed \$100 which is not treated as wages on the employe's W-2 form. What limitations apply for Wisconsin tax purposes?

Answer 3: The expense relates to employes and others. The amount not deductible is \$25, computed as follows:

Cost of meal	\$150.00
\$25 limit for 4 people	100.00
Excess	<u>\$ 50.00</u>
Multiply by 50%	50%
Amount not deductible	<u>\$ 25.00</u>

The employer may not deduct \$16.67 of the \$100 reimbursement expense, which is the ratio of the amount reimbursed by the employer (\$100) to the total expense (\$150) multiplied by the \$25 nondeductible expense. The employe may not deduct \$8.33 of the \$50 net expense he or she incurred, which is the ratio of expense not reimbursed by the employer (\$50) to the total expense (\$150) multiplied by the \$25 nondeductible expense.

Question 4: A sole proprietor gives a business luncheon for twenty-four clients. He or she rents a meeting room for \$200 and incurs meal expenses of \$1,000. What limitations would apply for Wisconsin tax purposes?

Answer 4: The \$200 expense is not deductible because it is an entertainment facility expense. The portion of the business meals that is not deductible is \$187.50. This amount is computed as follows:

Cost of business meal	\$1,000.00
\$25 limit for 25 people	(625.00)
Excess	<u>\$ 375.00</u>
Multiply by 50%	50%
Amount not deductible	<u>\$ 187.50</u>

Question 5: A corporation owns a yacht which is used to provide business meals to clients in a quiet setting. The interest deduction for the yacht is \$5,000 for 1986. The corporation provides

200 business meals on the yacht during the year at a cost of \$4,000. None of the meals cost more than \$25 per person. The corporation deducts \$9,000 for federal tax purposes for 1986. What amount is deductible for Wisconsin tax purposes?

Answer 5: The corporation may deduct \$4,000 for meals for Wisconsin tax purposes. Only the cost of the meals is deductible. The \$5,000 interest expense in respect to the facility is not deductible for Wisconsin tax purposes.

Question 6: An employe for a regional CPA firm in Milwaukee travels to New York city to conduct an audit for his or her employer. The employe remains in New York overnight. The employe dines alone and incurs a meal expense of \$50. The employe is reimbursed \$50 by his or her employer. Does the \$25 limit for meals apply in this situation? If so, how does the business meal expense limitation apply?

Answer 6: Yes. This limitation applies to all business meals whether dining alone or with someone else. The employer is not allowed to deduct \$12.50 $[(\$50 - \$25) \times 50\%]$ of the \$50 reimbursement.

Part V

BUSINESS TRAVEL FOR MORE THAN A YEAR IN ONE CITY (Sections 71.01(4)(a)6m.d., 71.04(2)(b)14 and 71.05(1)(a)27.d., 1985 Wis. Stats.). Business travel expenses for trips lasting one year or more in one city that are deductible for federal tax purposes are not deductible for Wisconsin tax purposes.

Question 1: A taxpayer living in Wisconsin is given a temporary job assignment in Chicago in June, 1985. For federal and Wisconsin tax purposes, the taxpayer deducts \$5,000 of travel expenses for 1985. The taxpayer remains in Chicago until September, 1986 (more than 1 year) and deducts \$7,000 of travel expenses on his or her 1986 federal tax return. Are the travel expenses deductible for Wisconsin tax purposes in 1986? Are they deductible in 1985?

Answer 1: The taxpayer would not be allowed a deduction of \$7,000 in 1986 because his or her stay in Chicago lasted one year or more. The deduction is allowable in 1985 because this travel limitation did not become effective until the 1986 taxable year.

Question 2: Assume the same facts as in Question 1 except the years involved are 1986 and 1987. Are the travel expenses deductible for Wisconsin tax purposes?

Answer 2: No. The taxpayer must amend his or her 1986 Wisconsin tax return once it is known that the job assignment will last one year or more to remove the deduction of \$5,000. In 1987, the taxpayer is not allowed a deduction for \$7,000 of travel expenses for Wisconsin tax purposes.

Part VI

BUSINESS TRAVEL BY LUXURY WATER TRANSPORTATION (Sections 71.04(4)(a)6m.e., 71.04(2)(b)15 and 71.05(1)(a)27.e., 1985 Wis. Stats.). Travel expense for luxury water transportation in excess of otherwise available business

transportation, deductible for federal tax purposes, is not deductible for Wisconsin tax purposes.

Question 1: What is luxury water transportation?

Answer 1: Luxury water transportation includes travel by ocean liners, cruise ships or similar water transportation.

Question 2: What is "otherwise available business transportation?"

Answer 2: "Otherwise available business transportation" means twice the highest maximum per diem rate prescribed under paragraph 1-7.2 of Regulation § 5e. 274-8 (Federal Travel Regulations) for reimbursement of subsistence expenses incurred during official travel within CONUS (the conterminous United States), multiplied by the number of days engaged in luxury water travel. Any limited special exception to this amount (e.g., a higher limit that applies only to high ranking personnel) is disregarded. The applicable maximum per diem rate effective July 9, 1986, is \$126 (New York City's maximum per diem rate).

Question 3: Are taxpayers required to allocate a portion of the total amount charged for luxury travel for meals or entertainment which could be limited under a different part of the law?

Answer 3: No. In the absence of separately stated meal or entertainment charges, taxpayers are not required to allocate a portion of the total amount charged to meals or entertainment unless the amounts to be allocated are clearly identifiable. If meal or entertainment expenses are separately stated, the business meal and entertainment expense limitations will apply to those charges. (See Question 5 below.)

Question 4: In 1986, a taxpayer travels to London on business by ocean liner. The trip takes six days and costs the taxpayer \$2,000 which he or she deducts for federal tax purposes. Using the applicable maximum per diem amount stated in Answer 2 above, what amount is not deductible for Wisconsin tax purposes?

Answer 4: The amount not deductible is \$488, computed as follows:

Cost of luxury water transportation	\$ 2,000
Less: Two times the maximum per diem for six days (2 x \$126 x 6)	(1,512)
Amount not deductible	\$ 488

Question 5: Assume the same facts as in Question 4 except the \$2,000 cost includes \$300 for six meals (\$50/meal). What amount is not deductible for Wisconsin tax purposes?

Answer 5: The amount not deductible is \$263, computed as follows:

Cost of luxury water transportation	\$ 1,700
Less: Two times the maximum per diem for 6 days	(1,512)
Amount not deductible for transportation	\$188
Amount not deductible for meals $[(\$300 - \$150) \times 50\%]$	75
Total amount not deductible	\$263

* \$150 = 6 x \$25/meal

Part VII

TRAVEL FOR CONVENTIONS, MEETINGS OR SEMINARS HELD ON CRUISE SHIPS (Sections 71.01(4)(a)6m.f., 71.04(2)(b)16 and 71.05(1)(a)27.f., 1985 Wis. Stats.). Travel expenses for conventions, meetings or seminars held on cruise ships and not treated as income, that are deductible for federal tax purposes, are not deductible for Wisconsin tax purposes.

Question 1: An employe incurs \$2,000 of expense for travel on a cruise ship for a seminar. The employe is reimbursed \$1,500 by his or her employer. The employe claims a deduction of \$500 (\$2,000 – \$1,500) for federal tax purposes and the employer claims a deduction of \$1,500 for federal tax purposes. Is the \$1,500 reimbursement considered “income” for purposes of the Wisconsin limitation for travel expenses?

Answer 1: No. Reimbursement is not considered “income.” “Income” for purposes of this Wisconsin limitation means wages and compensation subject to withholding taxes.

Question 2: What amount is not deductible for Wisconsin tax purposes based on the facts of Question 1?

Answer 2: The employe will not be allowed a deduction for the \$500 portion of the total which was not reimbursed. His or her employer will not be allowed a deduction for \$1,500.

Question 3: An employe attends a seminar on a cruise ship and incurs expenses of \$1,500. The employe is reimbursed \$1,000 by his or her employer. The employer treats the \$1,000 reimbursement as wages on the employe’s W-2 form. The employe deducts \$1,500 of travel expenses for federal income tax purposes and includes as income the \$1,000 of reimbursement from his or her employer. What amount is not deductible for Wisconsin tax purposes?

Answer 3: \$500 is not deductible by the employe (\$1,500 expense less the \$1,000 expense treated as income). The employer may deduct the \$1,000 reimbursement as wage expense.

Question 4: May the per diem rule under the limitations for luxury water transportation be used in the above cases?

Answer 4: No. If luxury water transportation expenses relating to a seminar, convention or meeting on board are incurred, only the limitations for travel for conventions, meetings or seminars held on cruise ships will apply.

Part VIII

BUSINESS TRAVEL AS A FORM OF EDUCATION (Sections 71.01(4)(a)6m.g., 71.04(2)(b)17 and 71.05(1)(a)27.g., 1985 Wis. Stats.). Business travel expenses that are deductible for federal tax purposes as a form of education are not deductible for Wisconsin tax purposes.

Question 1: What is meant by “travel as a form of education?”

Answer 1: “Travel as a form of education” means a travel deduction that would otherwise be allowable only on the ground that

the travel itself serves as education. For example, a French teacher travels to France in order to maintain general familiarity with the French language and culture. The travel itself serves as a form of education.

Question 2: A scholar of French literature travels from the United States to France to take courses that are offered only at the Sorbonne. These classes maintain skills necessary in his or her present job. Does the limitation of travel as a form of education apply?

Answer 2: No. The limitation does not apply when a deduction is claimed with respect to travel that is a necessary adjunct to engaging in an activity that gives rise to a business deduction relating to education.

Question 3: A taxpayer is an instructor at a local university and also teaches a course at a local technical college. Are the automobile expenses the taxpayer incurs in traveling from the university to the technical college deductible for Wisconsin tax purposes?

Answer 3: Yes. These auto expenses are not considered to be travel as a form of education, but rather are considered to be ordinary and necessary business expenses.

Question 4: A Spanish interpreter enrolls in a course on Spanish culture. The course consists of informal instruction on Spanish customs that prepares the interpreter for a trip to Spain. The trip is the principal purpose of the course. The following travel expenses are claimed on the taxpayer’s federal income tax return:

Travel, meals and lodging for the trip	\$2,500
Car expenses from location of employment to the university	30

Are these travel expenses deductible for Wisconsin tax purposes?

Answer 4: No. The travel expenses for the trip to Spain are not allowed as a deduction because the travel itself has no other business purpose than to serve as a form of education. The car expenses are not deductible because they are only incurred for the preparation for the trip to Spain.

Question 5: Assuming the same facts as in Question 4, what amounts are not deductible for Wisconsin tax purposes if the interpreter is reimbursed \$2,530 by his or her employer and the reimbursement is not treated as compensation and wages on the employe’s W-2 form?

Answer 5: A \$2,530 deduction for reimbursement may not be claimed by the employer. The employe claims no deduction because the travel expense less the reimbursement equals zero.

Question 6: A French teacher enrolls in a summer course at a university in Paris, France. The course maintains skills necessary in his or her job. The taxpayer spends four weeks attending classes and two additional weeks traveling in France. The following expenses are deducted for federal income tax purposes:

Air fare to and from Paris	\$1,000
Meals and lodging (\$200 per week)	1,200
Transportation expenses while attending classes in Paris	200
Transportation expenses while traveling in France	300

air fare, meals and lodging necessary to attend the classes and transportation expenses while attending classes are deductible for Wisconsin tax purposes because such expenses are necessary to engage in an activity that gives rise to a business deduction relating to education.

What amounts are not deductible for Wisconsin income tax purposes?

Answer 6: The amounts for meals, lodging and transportation expenses while traveling in France are not deductible (\$700, which is two weeks of meals and lodging at \$200 per week, and transportation expenses of \$300) because the travel itself serves no other business purpose than as a form of education. Expenses for

Question 7: A self-employed individual travels to Germany to observe techniques in a business similar to his or her business. For federal tax purposes, the individual deducts the travel expenses as education. Are these expenses deductible for Wisconsin tax purposes?

Answer 7: No. The travel itself serves no other business purpose than as a form of education.

SUMMARY OF REIMBURSEMENT SITUATIONS BETWEEN EMPLOYER AND EMPLOYEE

Type of Reimbursement	Deductibility of Expense	Type of Expense	Reimbursement vs. Deductible Expense	Result	Part I Reference in Tax Release
I. Full reimbursement - not wages*	Fully nondeductible			Limitations apply to employer	Question 1
	Partially nondeductible			Limitations apply to employer	
II. Full reimbursement - wages**	Fully nondeductible			Limitations apply to employe	
	Partially nondeductible			Limitations apply to employe	
III. Partial reimbursement - not wages*	Fully nondeductible			Limitations apply to employer and employe	Question 2
	Partially nondeductible	Relates solely to employe	Reimbursement \geq deductible expense	Limitations apply to employer and employe	Question 3
		Relates to employe and employer	Reimbursement < deductible expense	Limitations apply to employe	
IV. Partial reimbursement - wages**	Fully nondeductible			Limitations apply to employer and employe	Question 2
	Partially nondeductible			Limitations apply to employe	Question 3
V. No reimbursement	Fully nondeductible			Limitations apply to employe	Question 4
	Partially nondeductible			Limitations apply to employe	

*Not wages means the employe has not treated the reimbursement as wages subject to withholding and has not reported them on the employe's W-2 form.

**Wages means the employer has treated the reimbursement as wages subject to withholding and has reported them on the employe's W-2 form.

CORPORATION FRANCHISE/INCOME TAXES**1. Deductions for Waste Treatment Facility**

Statutes: Sections 71.02(1)(e) and 71.04(2g)(a), 1985 Wis. Stats.

Facts and Question: XYZ Corporation, which uses the accrual method of accounting, spent \$100,000 during its 1984 taxable year to half-complete a qualifying waste treatment facility. In taxable year 1985, the remaining \$100,000 was spent, and the facility was completed and placed in service.

The first sentence of s. 71.04(2g)(a), 1985 Wis. Stats., provides that the cost of a waste treatment facility may be deducted in the year paid, as defined in s. 71.02(1)(e). The last sentence of s. 71.04(2g)(a) states, "The deduction election, once made, cannot be changed, and it may be claimed beginning with the month following the month in which the facility is completed or acquired, or with the succeeding taxable year."

Is the \$100,000 spent in taxable year 1984 deductible in that year, or is the entire \$200,000 deductible in 1985 when the waste treatment facility was completed?

Answer: The cost of a qualifying waste treatment facility is deductible in the year paid, as defined in s. 71.02(1)(e), 1985 Wis. Stats. However, the deduction cannot be claimed until after the facility qualifies. Thus, if it takes more than one year to complete the waste treatment facility, the costs paid in prior years may be deducted on amended returns filed after the facility qualifies. In this example, a \$100,000 deduction may be claimed for the 1984 taxable year on an amended return filed for the 1984 taxable year after the waste treatment facility achieved qualifying status in taxable year 1985. The \$100,000 paid in 1985 may be claimed on a 1985 return.

