



TRAVEL TAX RULES

Frequently Asked Tax Questions

1. What are the requirements to qualify for tax-free meal per diem, housing, and transportation benefits?

There are three main tax rules that must be met for these travel benefits to be treated as nontaxable compensation. ① The traveler must have a permanent tax home. ② The assignment must not be within commuting distance of the permanent tax home. ③ The assignment including extensions may not extend beyond one year. The first rule is complex and can be quite subjective depending on the traveler's facts and circumstances. More detailed information for all three rules is available in the *Employment Contract Package* and at destinationstaffing.com.

2. What are the consequences if one or more of these rules are not met?

If the traveler fails to meet the first or second rule, all travel benefits must be treated as taxable compensation from the beginning of the assignment. The taxable compensation would include all meal & incidental per diems, housing stipends or Company paid housing costs, and mileage reimbursements and other transportation costs. This compensation would be subject to applicable payroll tax withholding which could approximate 35-40% of the travel benefits. If the one-year limit rule is failed, all of the travel benefits must be treated as taxable compensation as soon as it becomes known that the one-year limit will be exceeded. Generally, it is considered *known* at the time of the signing of the assignment extension that will make the total length of the assignment (plus extensions) beyond one year. The taxable benefit treatment goes into effect on such signing date and would continue through the remainder of the extended assignment.

3. When must the *Tax Home Representation* form be completed?

The *Tax Home Representation* form must be completed prior to commencement of the traveler's first assignment and annually thereafter with the execution of each annual employment agreement. The form should also be completed whenever there is a change in the traveler's tax home status. The traveler should retain the *Tax Home Determination* worksheet for their tax files. The Company should not receive or retain the worksheet.

4. Who makes the final determination on whether the traveler has a permanent tax home?

Because the determination of the tax home status is sensitive to the facts and circumstances of the traveler and can be highly subjective, the traveler (in consultation with his/her tax advisor) must make the final determination and does so with the execution of the *Tax Home Representation Form*. The Salt Lake City based Tax Department may help clarify the tax rules, but the final conclusion resides with the traveler, hopefully in consultation with the tax advisor.

5. Who monitors the commuting and one-year limit rules?

The recruiter with the consultation of the Payroll and Tax Departments should monitor both of these rules and inform the traveler of potential non-qualifying status since the tax treatment may be a critical factor whether the traveler accepts the assignment or assignment extension. The one-year limit can easily be evaluated prior to each assignment extension and the time and distance criteria for commuting can be preliminarily determined from Internet mapping sites such as MapQuest.

6. Why is the *Housing Allowance Representation Form* required?

In order to pay a tax-free housing per diem, not only do the requirements listed in 1. above need to be met, but the company must also have a "reasonable belief" that temporary lodging expenses are actually incurred by the traveler while away from their tax home on assignment. This form provides "reasonable belief".

Tax information contained in this document is not intended to be used, and cannot be used, by any person as a basis for avoiding tax penalties that may be imposed by the IRS or any state. We recommend each taxpayer seek advice based on their circumstances from an independent tax advisor.