

Home Office Deductions

by Michael J. Knight

Are salespersons who maintain an office in their homes entitled to a deduction for the business use of their homes?

Under Code Section 280A of the Internal Revenue Code, whether you are an employee or self-employed, you may be allowed to take a limited deduction for the business use of a part of your home that is used:

1. As the principal place of business for any trade or business in which you engage, or
2. As a place to meet or deal with patients, clients, or customers in the normal course of your trade or business, or
3. In connection with your trade or business, if you are using a separate structure that is not attached to your house or residence.

In each case, the use must be **exclusive** and **regular**. **Exclusive** use means only for business. If you also use this business area of your home for personal purposes, you do not meet the exclusive test. **Regular** use means on a continuing basis, not occasional or incidental business use.

For one to meet the principal place of business test under Code Section 280A(c)(1)(A), the IRS focuses on two primary factors:

1. The relative importance of the activities performed at each business location, and
2. The amount of time spent at each location.

A comparison of the relative importance of the activities performed and where the activities take place will be given great weight in determining where the principal place of business is. If the relative importance of the activities were to produce no clear indication of principal place of business, then the amount of time spent at each location would be considered.

In addition to the above rule, an **employee** will be allowed a deduction only if the home office is for the convenience of the **employer**.

IRS Publication 587, *Business Use of Your Home*, gives two simple examples:

"A sales person...makes most of his sales to customer by telephone or mail from his home office. He spends an average of 30 hours a week at his home office and 12 hours a week visiting prospective customers to deliver products and occasionally takes orders. The essence of his business requires him to make telephone or mail contact with customers primarily from his office, which is in his home. Actually visiting the customers is less important to his business than the sales activities he performs from his home office. In addition, a comparison of the 30 hours a week spent selling to customers from the home office with the 12 hours a week spent visiting customers further supports the conclusion that the home office is the principal place of business. Therefore, he can

deduct expenses for the business use of his home."

Conversely, "a sales person uses as his only office a room in his home used regularly and exclusively to set up appointments, store product samples, and to write up orders and other reports...his business is selling products to customers at various locations within the area where he lives. To make these sales, he regularly visits the customers to explain the available products and to take orders... he makes only a few sales from his home office and spends an average of 30 hours a week visiting customers and 12 hours a week working at his home office...the essence of his business requires him to meet with customers primarily at the customers' place of business. The home office activities are less important to this business than the sales activities he performs when visiting customers. In addition, a comparison of the 12 hours a week spent in the home office to the 30 hours a week spent visiting customers further supports the conclusion that the home office is not his principal place of business. Therefore, he cannot deduct expenses for the business use of his home."

Conclusion

For salespersons to be allowed a home office deduction, they must be able to objectively demonstrate that these parts of their homes are used **exclusively** and **regularly** as their **principal places of business**. They must be able to demonstrate that the essence of their businesses, the most important activities of their jobs, take place at these home offices, and the activities that they perform away from their home offices are of less importance to their businesses. If this is the case, home office deductions will be allowed.

However, if business activities are conducted both at the home office and away from the home office, and there is no clear indication whether your home office is your principal place of business, then the amount of time you spend at your home office vs. away from this office becomes significant. If more time is spent at the office, this, along with the fact that there was no clear indication based on the location of where activities took place, would tend to support the conclusion that the home office is the principal place of business, and therefore a deduction for the business use of your home should be allowed.