

GMS Flash Alert

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United States - Treatment of Employer Reimbursements for Moving Expenses

This GMS *Flash Alert* provides an update concerning the tax treatment of employer reimbursements of qualifying moving expenses incurred in 2017 but paid in 2018.

On September 21, 2018, the U.S. Internal Revenue Service (IRS) released [Notice 2018-75](#), which provides new guidance on the tax treatment of employer reimbursements of qualifying moving expenses incurred in 2017 but paid in 2018.¹ The Notice provides that payments or reimbursements of expenses considered to be qualified moving expenses in 2017 that are paid or reimbursed in 2018 are excludable from an employee's gross income.

WHY THIS MATTERS

Many individual taxpayers and their employers have had concerns about the new treatment of moving expenses under *The Tax Cuts and Jobs Act* (Pub. L. 115-97 or "TCJA")², which suspended the exclusion for reimbursement for qualified moving expenses for tax years 2018 through 2025. Before this Notice, it was not certain whether qualified moving expenses incurred in 2017 but paid in 2018 would be excluded from an employees' income in 2018.

Notice 2018-75 provides some welcome guidance on this issue. With the issuance of this Notice, the IRS has confirmed that reimbursements paid in 2018 for qualified moving expenses that would have been deductible to the employee if the employee directly paid the expenses prior to January 1, 2018, are excluded from the employees' gross income.

Background

The enactment of TCJA suspended the exclusion from gross income and from wages for employment tax purposes for qualified moving expense reimbursements³ for years 2018-2025, except for members of the Armed Forces of the United States on active duty who move pursuant to a military order and incident to a permanent change of station.⁴

What Notice 2018-75 Addresses

The Notice specifically addresses employer reimbursements made in tax years beginning after December 31, 2017, for qualified moving expenses incurred in connection with a move that occurred before 2018. The IRS Notice states that reimbursements received after 2017 for a move made before 2018 will not be subject to the suspension of the income exclusion.

To qualify, the reimbursements or payments must be for work-related moving expenses that would have been deductible by the employee if the employee had directly paid them prior to January 1, 2018. Also, the employee must not have deducted the expenses in 2017.

As an example, the IRS Notice explains that if an individual moved in 2017 and the expenses for the move would have been deductible by the individual under Internal Revenue Code section 217 (as in effect before the new tax law), and if the individual did not deduct the moving expenses, then the amount received (directly or indirectly) in 2018 by the individual from an employer as payment for or reimbursement of the expenses will be a qualified moving expense reimbursement. As such, the payment or reimbursement of the expenses is excludable from income as a qualified moving expense reimbursement for income tax purposes and also for employment tax purposes.

The IRS Notice also addresses how employers that have included such amounts in employees' wages or compensation and have withheld and paid federal employment taxes on these amounts can make an adjustment or claim a refund for the overpayment.⁵

Notice 2018-75 will be published in *Internal Revenue Bulletin* 2018-41, dated October 9, 2018.

FOOTNOTES:

1 See IRS [Notice 2018-75](#).

2 For related coverage of the TCJA, see the following issues of GMS *Flash Alert*: [2017-192](#) (December 22, 2017), [2017-187](#) (December 19, 2017) and [2017-185](#) (December 16, 2017).

3 Otherwise allowed under Internal Revenue Code section 132(g)(1).

4 Internal Revenue Code section 132(g)(2).

5 Following the guidance of Rev. Rul. 2009-39, IRS Publication 15, and the instructions to Form 941-X.

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