



United States

Deductibility of qualified moving expense reimbursements



Overview

Introduction

As a result of tax legislation signed into law on December 22, 2017 (P.L. 115-97, the “Act”), employees must include in gross income the value of qualified moving expenses paid or reimbursed for taxable years beginning after December 31, 2017. Numerous questions have arisen regarding the application of the Act to payments or reimbursements received after December 31, 2017, for expenses resulting from employment-related moves occurring prior to January 1, 2018. The Internal Revenue Service (IRS) issued Notice 2018-

75 (the “Notice”) to provide further guidance regarding these payments and reimbursements.

Background

Prior to the Act, qualified moving expense reimbursements were excludable from an employee’s federal gross income and from wages and compensation for employment tax purposes. Qualified moving expense reimbursements include amounts received directly or indirectly by an individual from an employer as payment (or

reimbursement) of expenses that would be deductible moving expenses if paid by the individual.

The Act repealed the federal deduction for moving expenses and the exclusion for qualified moving expense reimbursements paid by an employer, with an exception for members of the armed forces on active duty. These changes are effective for taxable years beginning after December 31, 2017, and before January 1, 2026. States' positions on the taxability of moving expenses have varied, with some states following the new federal position and others continuing to allow for an exclusion from wages for qualified moving expenses.



Guidance under the Notice

Stakeholders expressed concern that payments or reimbursements made in 2018 pertaining to an employment-related relocation that occurred in 2017 may be taxable due to changes made by the Act. Thus, the Notice addresses the following situations:

1. An employer payment of moving expenses to a third party after December 31, 2017, for moving expenses provided to an individual prior to January 1, 2018; and
2. A reimbursement after December 31, 2017, for expenses incurred in connection with a move by an individual prior to January 1, 2018.

The Notice provides that the change in the taxability of qualified moving expenses only applies to payments or reimbursements for employment-related moves occurring after December 31, 2017. Thus, if an individual moved in 2017 and the expenses would have been excluded under the prior law, then the payment or reimbursement received in 2018 from the employer is a qualified moving expense reimbursement. Therefore, such an amount is excludable from 2018 income as a qualified moving expense reimbursement and from wages and compensation for employment tax purposes.

Employers who have previously included such amounts in wages or compensation for purposes of federal employment taxes and have withheld and paid federal employment taxes may use the adjustment or refund claim process to correct any overpayment of federal employment taxes on these amounts.

State considerations for the taxability employer of paid moving expenses

States have responded to the change in taxability of moving expenses in a few different ways, and each state's process should be reviewed individually to determine whether it is including or excluding employer-paid qualified moving expenses in income. States may fall into one of three categories:

1. **Rolling conformity:** States that follow the Internal Revenue Code's definition of gross income and automatically adopt new legislative changes. These states follow the federal treatment and include qualified employer-paid moving expenses in income starting in 2018. Similarly, these states will follow the new guidance outlined in the Notice regarding moves that took place in 2017 and were paid or reimbursed in 2018.
2. **Static conformity:** States that follow the Internal Revenue Code as of a particular date. These states will continue to exclude employer-paid qualified moving expenses from taxable income unless they update their static conformity date to incorporate the new legislative changes.
3. **Flexus conformity:** States that selectively conform to parts of the Internal Revenue Code or selectively decouple from specific amended federal provisions.

While many states have been issuing guidance throughout the year on their position, some states have not issued guidance, and it is possible their current positions could change prior to the end of the year. Given that state positions sometimes change, employers should work with their tax advisers to determine whether the states they operate in are either rolling, static, or flexus conformity states.



Deloitte's view

Employer-paid moving expenses for moves occurring after December 31, 2017, and before January 1, 2026, should be included in taxable income. Employers who have included 2018 payments or reimbursements for 2017 or prior employment-related moves in an individual's 2018 wages or compensation for federal employment tax purposes and withheld and paid federal employment taxes on such amounts, may need to adjust the withholding and payment of tax or claim a refund. Alternatively, an employer who has not yet paid or reimbursed an individual for an employment-related move occurring in 2017 should consider whether its payroll process is set up to

exclude such amounts from federal employment tax withholding and payment.

State positions on the taxability of moving expenses present an added complexity for payroll reporting and should be reviewed individually for each state and monitored as new legislation or guidance is released. Deloitte recommends that employers review their payroll positions to ensure compliance at both a federal and state level.



This document contains general information only and Deloitte is not, by means of this document, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This document is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this document.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. In the United States, Deloitte refers to one or more of the US member firms of DTTL, their related entities that operate using the “Deloitte” name in the United States and their respective affiliates. Certain services may not be available to attest clients under the rules and regulations of public accounting. Please see www.deloitte.com/about to learn more about our global network of member firms.