

Reimbursing Business Travel Expenses

Does your tribe reimburse your council members or other tribal employees for business travel expenses?

A reimbursement or allowance plan provides for payment of advances, reimbursements and charges for expenses that your employees incur while traveling for the tribe that are directly related to or associated with the business of the tribe. They apply to all ordinary and necessary employee business expenses that would otherwise qualify for a deduction by the employee. All discussion below assumes that these expenses have met these qualifications.

If these reimbursements are paid to your employees under an accountable plan, they generally are not considered wages and are not reportable on the employee's W-2 and are not subject to any employment taxes. (However, see "NOTE" in discussion of per diem below.)

If the reimbursements are paid to your employees under a nonaccountable plan, these payments are considered wages, should be reported on the employee's W-2, and are subject to income tax withholding, social security tax and Medicare tax.

So, what is an accountable plan? What is a nonaccountable plan?

ACCOUNTABLE PLAN: To be an accountable plan, your reimbursement or allowance arrangement must require your employees to meet all three of the following rules:

1. They must have paid or incurred deductible expenses while performing services as your employees.
2. They must adequately account to you for these expenses within a reasonable period of time.
3. They must return any amounts in excess of expenses within a reasonable period of time.

Amounts paid under an accountable plan are generally: 1) not wages (however, see "NOTE" in discussion of per diem below); 2) should not be included on the employee's W-2; and 3) are not subject to income tax withholding, social security, Medicare taxes and FUTA.

(**Reminder:** Announcement 2001-16 addresses which tribal governments are not subject to FUTA taxes.)

NONACCOUNTABLE PLAN: A nonaccountable plan is any arrangement that does not meet the requirements of an accountable plan.

For example:

- 1: Your employee is not required to or does not substantiate timely those expenses to you with receipts or other documentation following the requirements for an accountable plan listed above, or
2. You advance an amount to your employee for business expenses and your employee is not required to or does not return timely any amount he or she does not use for business expenses.
3. You advance or pay an amount to your employees without regard to their anticipated or incurred business expenses.

Payments to your employee for travel and other necessary expenses of your business under a nonaccountable plan are reported as wages, should be included on the employee's W-2 and are subject to income tax withholding, social security and Medicare taxes. These payments are treated as supplemental wages. (See section 7 of Publication 15 for more information on supplemental wages.)

ADDITIONAL INFORMATION ON ACCOUNTABLE PLANS

1. Definitions:

While performing services as your employees: The employee must substantiate to you the time, place and business purpose of their travel.

Adequately account: Your employees must adequately account to you for their travel, meals and other expenses incurred during their travel. They must give you documentary evidence. This evidence should include items such as receipts, along with either a statement of expenses, an account book, a day planner or similar record in which the employee entered each expense at or near the time the expense was incurred.

A reasonable period of time: A reasonable period of time depends on the facts and circumstances. Generally, it is considered reasonable if our employees receive the advance within 30 days of the time they incur the expense, adequately account for the expenses within 60 days after the expenses were paid or incurred, and they return any amounts in excess of expenses within 120 days after the expense was paid or incurred. Also, it is considered reasonable if you give your employees a periodic statement (at

least quarterly) that asks them to either return or adequately account for outstanding amounts and they do so within 120 days.

Excess reimbursement or allowance: Any amount you pay to an employee that is more than the business-related expenses for which the employee adequately accounted. The employee must return any excess reimbursement or other expense allowance to you within a reasonable amount of time.

2. If the expenses covered by an accountable plan are **not** substantiated or amounts in excess of expenses are **not** returned within a reasonable period of time, the amount is treated as paid under a **nonaccountable plan**. This amount should be included on the employee's W-2 and is subject to income tax withholding and payment of social security and Medicare taxes for the first payroll period following the end of the reasonable period.

3. Actual Expenses vs. Per Diem or other Fixed Allowance: Under an accountable plan, you may reimburse your employees in one of two ways: actual expenses or per diem or other fixed allowance rate.

Actual Expenses: Your employee is required to account to you for every travel expense incurred, including: actual transportation expense (airplane, taxi, bus, shuttle, etc.), lodging expense, each meal expense, every incidental expense, and any other business travel expense that is ordinary and necessary. They account to you by providing documentation as described above under the definition of "adequately account for". They must also substantiate to you the time, place and business purpose of the travel. See Example A below.

Per Diem: Per Diem is a daily allowance. The federal government has established per diem rates for travel to various places in the country, including Alaska. The rate has two components: lodging expense and meal and incidental expense (M&IE). Federal Travel Regulations define "incidental expenses" as fees and tips given to porters, baggage carriers, bellhops, hotel maids, stewards and stewardesses and others on ships, transportation between places of lodging or business and places where meals are taken, and the mailing cost associated with filing travel vouchers. You can find the federal per diem rate for various places in Alaska by going to the internet at www.gsa.gov and click on "per diem rates" then click on "For rates in non-contiguous US locations."

When reimbursing your employees under an accountable plan based on federal per diem rates, your employee is considered to have accounted to you for the amount of that federal per diem expense. In other words, they do not have to break down individual meal costs, tips, and other incidental expenses defined above, and provide documentation. However, they must still substantiate to you the time, place, and business purpose of the travel. A

common method of reimbursing employees for travel using per diem rates is to:

1. Reimburse the employee by paying them the federal M&IE rate of the location they travel to, and
2. Reimburse them for actual lodging expenses incurred up to the limit set by their accountable plan, upon submission of the lodging receipt.
3. If the employee incurs other travel expenses that are ordinary and necessary but do not fall under the category of lodging of M&IE (e.g., airplane tickets, taxis to and from airport, car rentals, gas for rental car, parking, etc.), reimburse them for these expenses but only after they have “adequately accounted” to you for those additional expenses. See Example B below.

Fixed Allowance: (other than federal per diem): If you wish to reimburse your employees for meals and incidentals at a rate that is lower or higher than the federal M&IE rate, you may do so. However, if the fixed allowance rate is higher than the federal M&IE rate, the amount that is above the federal M&IE rate is considered wages and subject to income tax withholding, social security and Medicare taxes and reportable in boxes 1, 3, and 5 on the employee’s W-2. See Example E below.

NOTE: The federal per diem rates for M&IE are available for a full day of travel from 12:01 a.m. to 12:00 midnight. Federal Travel regulations allow three-fourths of the applicable federal M&IE for each partial day during which the employee is traveling away from home in connection with their business-related travel. See Examples B and E.

Example A

Your tribal council has an accountable plan that meets the criteria of an “accountable plan”. Your accountable plan is established to reimburse actual expenses incurred by the traveler. (Remember, these expenses must meet the criteria of being “ordinary and necessary employee business expenses”.) Your accountable plan states that the employee traveling does not have to provide a receipt for any expenditure less than \$25 although they must still establish the expense. Your accountable plan states that the Council will reimburse actual lodging fees in Fairbanks up to \$190 per night.

A tribal council member goes to the AFN meeting in Fairbanks during October 2005 to represent your tribal council. This member did not receive a travel

advance from the Council. Within 30 days of completing her trip to the AFN convention, the tribal council member submits to the tribal council:

1. Time, place and business purpose of her travel: October 23-October 30, 2005 to Fairbanks, AK to attend the AFN Convention.
2. Receipt for lodging: \$174 per night for 7 nights.
3. Receipts for all other expenses above \$25: airplane ticket (\$560), car rental (\$364), any meals or other expenses that are \$25 or over.
4. List of expenses less than \$25 that do not require a receipt: gas (\$23), parking (\$5), and any meals or other expenses less than \$25. For example:
 - a. 10/25/05 lunch - \$9.25, dinner - \$15.00, etc.
 - b. 10/29/05 – parking fee for rental car - \$5.00
 - c. 10/30/05 – gas for rental car - \$23.00

The amount of all actual expenses submitted totaled \$2,812. The tribe reimburses this tribal council member \$2,812. Since all criteria for an “accountable plan” are met, this amount is NOT included in the tribal council member’s W-2, and no taxes are withheld for the reimbursement payment.

Example A

Time, place and business purpose	October 23 – October 30, 2005: Fairbanks, AK. Attend the AFN Convention			
Type of Expense	Expense Incurred	Receipts/Documentation Required	Reimbursed	Reported on W-2
Transportation	\$560 airline	Airline ticket receipt for \$560	\$ 560	\$0
Transportation	\$364 rental car	Car rental receipt for \$364	364	0
Transportation	\$5 parking	Not necessary (less than \$25), included on itemized list	5	0
Transportation	\$23 gas	Not necessary, included on itemized list	23	0
Lodging	\$1,218	Lodging receipt for \$1,218 (174 x 7 nights)	1,218	0
M&IE	\$642	Receipts for all M&IE more than \$25; itemized list of M&IE less than \$25	642	0
Total	\$2,812		\$2,812	0
Since all criteria for an “accountable plan” are met, this amount is NOT included on the employee’s W-2, and no taxes are withheld from the reimbursement payment.				

Example B

Your tribe has an accountable plan that provides reimbursement of employees' business travel expenses using federal per diem rates for M&IE (meals and incidental expenses) and actual costs for lodging up to \$190 per night in Anchorage. The accountable plan states that business travel expenses must have receipts for all expenses (other than M&IE) unless the expense is less than \$25.

Your tribal employee who writes grants is sent to a grant-writing workshop in Anchorage in February 2006. He does not receive a travel advance from the tribe. Monday, the 6th, and Friday, the 10th, are travel days to and fro, Anchorage. Within 30 days after completing this business trip, the employee submits to the tribe:

1. Time, place and business purpose of travel: February 6 through February 10, 2006 in Anchorage, AK to attend a grant-writing workshop.
2. A claim for federal per diem for M&IE for each day in travel status. The federal per diem rate for M&IE in Anchorage, AK in the winter of 2006 is \$81 per day. This tribal council member claims $\frac{3}{4}$ of M&IE for 2/6 and 2/10 ($\frac{3}{4}$ of \$81 as they are partial travel days) and full M&IE per diem for days of 2/7, 2/8, and 2/9.
3. No individual receipts for meals and incidental expenses are required because the accountable plan reimburses the employee using the federal M&IE rate for that location. Remember, when you reimburse an employee using federal per diem M&IE rates, your employee is considered to have accounted to you for the amount of that federal per diem expense.
4. Receipt for lodging: \$165 per night for 4 nights.
5. Receipts for other business travel expenses \$25 and above: airplane ticket (\$560)
6. List of expenses less than \$25 that do not require a receipt: taxi from airport to hotel (\$21) and taxi from hotel to airport (\$21).

The total reimbursement to this employee is \$1,626.50. Since all of the criteria for an "accountable plan" are met, none of this reimbursement is reportable on the employee's W-2 nor is there any withholding of employment taxes on this reimbursement.

Example B

Time, place and business purpose	February 6 – February 10, 2006: Anchorage, AK; attend grant-writing workshop			
Type of Expense	Expense incurred	Receipts/Documentation Required	Reimbursed	Reported on W-2
Transportation	\$560 airlines	Airline ticket receipt for \$560	\$ 560.00	\$ 0
Transportation	\$21 taxi – airport to hotel	Not necessary (less than \$25), included on itemized list	21.00	0
Transportation	\$21 taxi-hotel to airport	Not necessary (less than \$25), included on itemized list	21.00	0
Lodging	\$660	Lodging receipt for \$660 (165 x 4 nights)	660.00	0
M&IE	\$364.50 2 days @ \$60.75 (3/4 x 81 for partial travel days) plus 3 days @ \$81.00	Not necessary. A written request is needed requesting reimbursement of federal per diem rate for M&IE for Anchorage for 5 days as described above.	364.50	0
Total	\$1,626.50		\$ 1,626.50	0
Since all criteria for an “accountable plan” are met, this amount is NOT included on the employee’s W-2, and no taxes are withheld from the reimbursement payment.				

Example C

Your tribe does not have an accountable plan. You pay any employee traveling on business for the tribal council a flat \$100 a day for meals and miscellaneous. You also pay actual lodging expenses (no limit). The tribe purchases the airline tickets for the employee and pays the airline directly. The employees are not asked to account for any of their expenses while in travel status.

An ICWA employee travels to Bethel in October 2005 to attend a training session for ICWA Coordinators.

Before the employee leaves for Bethel, the ICWA employee is given a check for \$800 (\$100 x 8 days) to cover expenses other than airfare and lodging (airline ticket has been paid for by the tribal council).

A week after the training, the ICWA employee does not turn in any documentation about the trip but verbally request reimbursement of his hotel bill

which was \$880. The tribe writes another check to the ICWA employee for \$880 to reimburse his hotel expense.

Since the tribe does not have an accountable plan, the \$1,680 is considered wages to the ICWA employee and is included on the employee's W-2 and is subject to federal income tax withholding, social security tax and Medicare tax.

Example C

Time, place and business purpose	October 3 – October 7, 2005; Bethel, AK. Attend ICWA training			
Type of Expense	Expense Incurred	Receipts/Documentation Submitted	Reimbursed	Reported on W-2
Transportation	\$180 airline	No receipt; paid directly by Tribe	\$ 0	\$ 0
Transportation	\$6 taxi airport to hotel	No receipt; employee is expected to pay out of \$100 a day advance.	0	0
Transportation	\$6 taxi hotel to airport	No receipt; employee is expected to pay out of \$100 a day advance.	0	0
Lodging	\$880 (110 x 8 nights)	No receipts requested; no receipts provided.	880	880
M&IE	\$800-Tribal Council pays \$100 per day (100 x 8 days)	No receipts requested; no receipts provided.	0	0
Total	\$ 1,872		\$ 1,680	\$ 1,680
Since the Tribe does not have an accountable plan, the \$1,680 is considered wages and is included on the employee's W-2 and is subject to federal income tax withholding, social security tax and Medicare tax.				

EXAMPLE D

Your tribe does not have an accountable plan. Tribal employees traveling on business for the tribe are given a tribal credit card for all travel expenses. The tribe then pays the credit card bill.

Your tribal administrator travels to Anchorage to attend the BIA Provider's Conference in late November 2005.

1. The tribal administrator uses a tribal credit card to pay for all expenses related to the trip.

2. Total travel expenses charged on tribal credit card is \$1,849.22. These charges include the airline ticket, meals, lodging expense, taxis, etc.
3. The tribal administrator does not submit any documentation or receipts for the charges. He does not provide any written documentation that describes the business purpose, time and place of this business trip.
4. The tribe pays the credit card bill of \$1,849.22 when the next statement arrives.

Since the tribe does not have an accountable plan, the \$1,849.22 paid for travel expenses of the tribal administrator is considered wages and should be included on his W-2. The \$1,849.22 is subject to federal income tax withholding, social security tax and Medicare tax.

Example D

Time, place and business purpose	None provided.			
Type of Expense	Expense Incurred	Receipts/Documentation submitted	Reimbursed	Reported on W-2
All travel expenses	\$ 1,849.22	Receipts: Time, place and business purpose: none provided Airline ticket: none provided Meals: none provided Lodging: none provided Taxis: none provided Credit card bill paid directly by tribal council when statement arrived.	\$ 0	\$1,849.22
Total	\$1,849.22		\$ 0	\$1,849.22
Since the Tribe does not have an accountable plan, the \$1,849.22 paid for travel expenses is considered wages and must be included on a W-2.				

EXAMPLE E

Your tribe has an accountable plan that pays M&IE of \$100 per day regardless of where the council employee travels for business in or out of the state of Alaska. The plan will pay for actual lodging costs up to \$180 per night. A receipt or other documentation must be provided for all other business expenses (other than M&IE) unless the expense is less than \$25.

Your tribal coordinator attends a business meeting in Nome October 24-28, 2005. Monday the 24th and Friday the 28th are travel days to and from Nome. She requests and receives a travel advance of \$1,400 from the tribal council. A month after the meeting, the tribal coordinator submits her request for reimbursement of her expenses:

1. The time, place and business purpose of her travel: October 24-28, 2005 in Nome, Alaska to attend a meeting for tribal coordinators.
2. Statement requesting reimbursement of her M&IE rate of \$100 per day as follows: \$75 for Monday and Friday (3/4 of \$100 as they are partial travel days), \$100 each for Tuesday, Wednesday, and Thursday.
3. Individual receipts for M&IE are not necessary because the accountable plan pays the employee an M&IE rate of \$100 per day for any location. Remember, when you have an accountable plan using per diem M&IE rates, your employee is considered to have accounted to you for the amount of the per diem expense.
4. Receipt for lodging: \$130 per night for 4 nights.
5. Receipts for all expenses \$25 and above: airfare (\$280).
6. List of expenses less than \$25 that do not require a receipt: 2 taxi rides to and from Nome airport ($\$10 \times 2 = \20).
7. Check to tribal council for \$130 from the tribal coordinator.

The total travel costs equal \$1,270. Since her travel advance was \$1,400, she should return the excess of \$130 to the tribal council ($1400 - 1270 = 130$). If she returns the excess "within a reasonable amount of time," the \$130 is not considered wages. If she does not return it, the payment is considered paid under a nonaccountable plan; the \$130 becomes taxable wages to her and must be included on her W-2 and is subject to federal income tax withholding, social security tax and Medicare tax.

Part of the M&IE allowance is considered wages because \$100 per day for M&IE under the tribal council's accountable plan is higher than the federal per diem rate for M&IE for Nome, which in 2005 was \$84 per day. The difference between the federal per diem rate for M&IE and the accountable plan's per diem rate for M&IE must be calculated and the difference included in the tribal coordinator's W-2 and is subject to employment taxes. \$75 vs. \$63 for Monday and Friday (partial travel days) and \$100 vs. \$84 for Tuesday, Wednesday, and Thursday. The total of the difference, \$72, would be includable in boxes 1, 3, and 5 on the W-2 and subject to income tax withholding, social security tax and Medicare tax.

M&IE	Employers' Accountable Plan		Federal Per Diem for Nome		Difference	On W-2
Whole day	\$100 per day	X 3 days = 300	\$84 per day	X 3 days = 252	\$ 48	\$ 48
Partial day @ ¾	\$75 per day	X 2 days = 150	\$63 per day	X 2 days = 126	24	24
Total		\$450		\$378	\$ 72	\$ 72

The tribal coordinator was reimbursed \$1,270. \$72 was considered wages and reportable on the coordinator's W-2 and subject to all employment taxes because \$72 is the amount paid for M&IE that was above the federal M&IE rate for the location of the business trip.

If the excess from the travel advance was not paid back, an additional \$130 would be reportable on the coordinator's W-2 and subject to all employment taxes. Since it was paid back, no additional amount would be reportable on the W-2.

Example E

Time, place and business purpose	October 24-October 28, 2005; Nome, AK. Attend tribal coordinators' meeting				
Type of Expense	Expense Incurred	Receipts/Documentation Required	Reimbursed	Reported on W-2	
Transportation	\$280 airline	Airline ticket receipt for \$280	\$ 280	\$ 0	
Transportation	\$10 taxi airport to hotel	Not necessary (less than \$25); included on itemized list	10	0	
Transportation	\$10 taxi hotel to airport	Not necessary (less than \$25); included on itemized list	10	0	
Lodging	\$520 (130 x 4 nights)	Lodging receipt for \$520	520	0	
M&IE	\$450 – 2 days @ \$75 (¾ x	Not necessary, but a written request will be necessary requesting reimbursement of	450	72	

	100 for partial travel days) plus 3 days @ \$100	established M&IE rate for Nome for 5 days as described above.		
Excess advance: Advanced \$1400 Actual Exp <u>\$1270</u> Difference \$130				\$ 0 If returned \$130 if <u>not</u> returned
Total	\$1,270		\$1,270	
Amount on W-2 if excess returned is \$72 Amount on W-2 if excess not returned is \$202				

For more information and more examples, please see:

Publication 463, "Travel, Entertainment, Gift, and Car Expenses", Section 5, "Record Keeping" and "Reimbursements"

Publication 535, "Business Expenses", Section 13, "Other Expenses"

Publication 15 (Circular E), "Employer's Tax Guide, Section 8, "Wages and other compensation"

