

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 are generally not considered wages and not reportable on the employees' W-2 and not subject to any employment taxes. (However, see "NOTE" in discussion of per diem below).

If the reimbursements paid to your employees are paid under a nonaccountable plan, those payments are considered wages, should be reported on the employees' 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 not wages (however, see "NOTE" in discussion of per diem below), should not be included on the employees' W-2 and 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.
- 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:

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

--Definition of "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.

-- Definition of "a reasonable period of time": A reasonable period of time depends on the facts and circumstances. Generally, it is considered reasonable if your 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.

--Definition of "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". They must also substantiate to you the time, place and business purpose of the travel. (See Example A)

--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 rates for various places by going to the internet at www.gsa.gov and click on "per diem rates".

When reimbursing your employees under an accountable plan based on federal M&IE 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 provide documentation for any lodging expenses and 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 traveled 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 or 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)

NOTE: If you wish to reimburse your employees for meals and incidentals at a rate that is higher than the federal M&IE rate, you may do so, but the amount that is above the federal M&IE rate is considered wages subject to income tax withholding, social security and Medicare taxes and reportable in box 1, 3 & 5 on the employees W-2. (See Example E)

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 rate for each partial day during which the employee is traveling away from home in connection with their business-related travel. (See examples B & 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 & 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 Washington,DC up to \$153 per night.

A tribal council member goes to the XYZ Tribal Conference meeting in Washington, DC in 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 meeting, the tribal council member submits to the tribal council:

- 1) time, place and business purpose of their travel: October 23 – October 30, 2005, Washington, DC to attend the XYZ Tribal Conference.
- 2) receipt for lodging: \$153 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) receipts not necessary for any expense less than \$25: gas (\$23), parking (\$5) and any meals or other expenses less than \$25. However, she must still establish the expense by including it in the list of total expenses incurred. (For example, “10/25/05 -- lunch -- \$9.25”; “10/30/05 -- gas for rental car -- \$23”; “10/29/05--parking fee for rental car -- \$5”).

The amount of all actual expenses submitted totaled \$2,665. The tribe reimburses this tribal council member \$2,665. 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 from the reimbursement payment.

Time, place and business purpose		October 23 – October 30, 2005, Washington, DC to attend the XYZ Tribal Conference		
Type of Expense	Expense incurred	Receipts/ Documentation needed	Reim-bursed	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	Receipt not necessary (less than \$25)	\$5	0
Transportation	\$23 gas	Receipt not necessary (less than \$25)	\$23	0
Lodging	\$1,071lodging (\$153 x 7 nights)	Lodging receipt for \$1071	\$1,071	0
Meals & incidentals	\$642 meals	Receipt for all meals & incidentals unless meal or incidental expense was less than \$25	\$642	0
Total	\$2,665	\$2,665	\$2,665	0

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 & incidental expenses) and actual costs for lodging up to \$149/night in Chicago. The accountable plan states that business travel expenses must have receipts for all expenses (other than meals and incidental expenses) unless the expense is less than \$25.

Your tribal employee who writes grants is sent to a grant-writing workshop in Chicago in December 2005. He does not receive a travel advance from the tribe. Monday, the 5th and Friday, the 9th are travel days to and from Chicago. Within 30 days after completing this business trip, the employee submits to the tribe:

- 1) time, place and business purpose of travel: December 5th through December 9th, 2005 in Chicago to attend a grant-writing workshop.
- 2) a claim for federal per diem for meals & incidental expenses (M&IE) for each day he is in travel status. The federal per diem rate for M&IE in Chicago in the fall of 2005 is \$48 per day. This tribal council member claims ¾ of M&IE for 12/5 and 12/9 (¾ of \$48 as they are partial travel days) and full M&IE per diem for days of 12/6, 12/7 & 12/8.
- 3) no individual receipts for meals and incidental expenses 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: \$149 per night for 4 nights
- 5) receipts for other business travel expenses \$25 and above: airplane ticket (\$560)
- 6) receipts not necessary for expenses under \$25: taxi from airport to hotel (\$21) and taxi from hotel to airport (\$21)

The total reimbursement to this employee is \$1,414.00. 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.

Time, place and business purpose		December 5 through December 9, 2005, Chicago to attend a grant-writing workshop		
Type of Expense	Expense incurred	Receipts/ Documentation needed	Reim-bursed	Reported on W-2
Transportation	\$560 airline	Airline ticket receipt for \$560	\$560	0
Transportation	\$21 taxi to hotel from airport	Receipt not necessary (less than \$25)	\$21	0
Transportation	\$21 taxi to airport from hotel	Receipt not necessary (less than \$25)	\$21	0
Lodging	\$596 lodging (\$149 x 4 nights)	Lodging receipt for \$596	\$596	0
Meals & incidentals	\$216 - 2 days at \$36 (¾ of \$48 for partial travel days) and 3 days at \$48	No receipts necessary, but a written request will be necessary requesting reimbursement of federal per diem rate for M&IE for Chicago for those 5 days as described above.	\$216	0
Total	\$1,414	\$1,414	\$1,414	0

EXAMPLE C

Your tribe does not have an accountable plan. You pay any employee traveling on business for the tribal council a flat \$100 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.

A tribal housing employee travels to Tulsa in October 2005 to attend a training session for housing employees.

- 1) Before the employee leaves for Tulsa, the tribe gives the employee 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).
- 2) A week after the training, the employee does not turn in any documentation about the trip but verbally requests reimbursement of his hotel bill which was \$880.
- 3) The tribe writes another check to the employee for \$880 to reimburse his hotel expense.

Since the tribe does not have an accountable plan, the \$1,660 is considered wages to the employee and is included on the employees W-2 and is subject to federal income tax withholding, social security tax and Medicare tax.

Time, place and business purpose		October 3, 2005 through October 11, 2005, Tulsa, Oklahoma attend housing training		
Type of Expense	Expense incurred	Receipts/ Documentation needed	Reim-bursed	Reported on W-2
Transportation	\$180 airline	No receipt, paid directly by the tribe	\$0	0
Transportation	\$6 taxi to hotel from airport	No receipt, employee expected to pay for taxi out of \$100 day/payment	\$0	0
Transportation	\$6 taxi to airport from hotel	No receipt, employee expected to pay for taxi out of \$100 day/payment	\$0	0
Lodging	\$880 lodging (\$110 x 8 nights)	No receipt requested	\$880	\$880
Meals & incidentals	Tribal council pays \$100 for each day. \$100 x 8 days = \$800	No receipts requested.	\$800	\$800
Total	\$1,872.00	None	\$1,680.00	\$1,680.00

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 conference in December 2005.

- 1) 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: \$1,849.22. These charges include the airline ticket, meals, lodging expense, taxis, etc.

- 3) 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) 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 to this tribal administrator 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.

Time, place and business purpose		November 28, 2005 through December 2, 2005, Anchorage, Alaska to attend the BIA Conference		
Type of Expense	Expense incurred	Receipts/ Documentation needed	Reim-bursed	Reported on W-2
All travel expenses	\$1,849.22	No receipts, documentation or "time, place and business purpose" of trip established or required. Credit card bill paid directly by the tribal council when statement arrives	\$0	\$1,849.22
Total	\$1,849.22	None	\$0	\$1,849.22

EXAMPLE E

Your tribe has an accountable plan that pays M&IE of \$50 per day regardless of where the council employee travels for business. The plan will pay for actual lodging costs up to \$150 per night. A receipt or other documentation must be provided for all other business expenses (other than meals and incidental expenses) unless the expense is less than \$25.

Your tribal coordinator attends a business meeting in Albuquerque for the week of October 24 through October 28, 2005. Monday the 24th and Friday the 28th are travel days to and from Albuquerque. She requests and receives a travel advance of \$1400 from the tribal council. A month after the meeting, the tribal coordinator submits her accounting of reimbursable expenses to be applied toward her advance.

- 1) time, place and business purpose of her travel: October 24 -28, 2005 in Albuquerque, New Mexico to attend a meeting for tribal coordinators.
- 2) requests reimbursement of her M&IE rate of \$50/per day as follows: \$37.50 for Monday & Friday (3/4 of \$50 as they are partial travel days), \$50 each for Tuesday, Wednesday & Thursday
- 3) individual receipts for meals and incidental are not necessary because the accountable plan pays the employee using an M&IE rate of \$50 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 that per diem expense. However, see NOTE below.
- 4) receipt for lodging: \$130 per night for 4 nights
- 5) receipts for all expenses \$25 and above: airfare (\$280),
- 6) receipts not necessary for expenses less than \$25: 2 taxi rides to and from Albuquerque airport (\$10 x 2 = \$20)
- 7) a check to tribal council for \$355 from the tribal coordinator.

(The total travel costs were \$1,045. Since her travel advance was \$1400, she must return the excess (\$355) to the tribal council. If she returns the excess "within a reasonable amount of time", the \$355 is not considered wages. If she does not return it, the payment is considered paid under a non-accountable plan and the \$355 becomes taxable wages to her and should be included on her W-2 and subject to the federal income tax, social security tax and Medicare tax).

NOTE: Part of the M&IE allowance is considered wages because \$50 per day for M&IE under the tribal council's accountable plan is higher than the federal per diem rate for M&IE for Albuquerque, which in 2005 was \$40 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 would be includable in the tribal coordinators W-2 and subject to employment taxes. (\$37.50 vs. \$30 for Monday & Friday (partial travel days) and \$50 vs. \$40 for Tuesday, Wednesday & Thursday.) The total of the difference, \$45, would be includable in boxes 1, 3 & 5 on the W-2 and subject to income tax, social security tax and Medicare tax.

Time, place and business purpose		October 24, 2005 through October 28, 2005, Albuquerque, New Mexico to attend a business meeting for tribal coordinators		
Type of Expense	Expense incurred	Receipts/ Documentation needed	Reim-bursable	Reported on W-2
Transportation	\$280 airline	Airline ticket receipt for \$280	\$280	0
Transportation	\$10 taxi to hotel from airport	No receipt, under \$25	\$10	0
Transportation	\$10 taxi to airport from hotel	No receipt. Under \$25	\$10	0
Lodging	\$520 lodging (\$130 x 4 nights)	Lodging receipt for \$520	\$520	\$0
Meals & incidentals	\$225: 2 days at \$37.50 (3/4 of \$50 for partial travel days) and 3 days at \$50	None. Receipts not required under an accountable plan that pays an established M&IE rate. However, the amount over the federal M&IE rate is considered wages and included on W-2.	\$225	\$45
Totals	\$1,045		\$1,045	\$45
Excess from travel advance: (\$1,400 less \$1,045)	\$355			\$0 if returned, \$355 if not returned

For more information and more examples, please see **Pub 463 "Travel, Entertainment, Gift, and Car Expenses"**, Section 5 "Record Keeping" & "Reimbursements"; **Pub 535 "Business Expenses"**, Section 13 "Other Expenses"; **Pub 15 (Circular E) "Employer's Tax Guide"**, Section 5, "Wages and other compensation".