

TRAVEL TAX RULES

Frequently Asked Tax Questions

1. What are the requirements to qualify for tax-free meal per diem, housing, and transportation benefits?

There are three main tax rules that must be met for these travel benefits to be treated as nontaxable compensation. The traveler must have a permanent tax home. The assignment must not be within commuting distance of the permanent tax home. The assignment including extensions may not extend beyond one year. The first rule is complex and can be quite subjective depending on the traveler's facts and circumstances.

2. What are the consequences if one or more of these rules are not met?

If the traveler fails to meet the first or second rule, all travel benefits must be treated as taxable compensation from the beginning of the assignment. The taxable compensation would include all meal & incidental per diems, housing stipends or Company paid housing costs, and mileage reimbursements and other transportation costs. This compensation would be subject to applicable payroll tax withholding which could approximate 35-40% of the travel benefits. If the one-year limit rule is failed, all of the travel benefits must be treated as taxable compensation as soon as it becomes known that the one-year limit will be exceeded. Generally, it is considered *known* at the time of the signing of the assignment extension that will make the total length of the assignment (plus extensions) beyond one year. The taxable benefit treatment goes into effect on such signing date and would continue through the remainder of the extended assignment.

3. When must the *Tax Home Representation* form be completed?

The *Tax Home Representation* form must be completed prior to commencement of the traveler's first assignment and annually thereafter with the execution of each annual employment agreement. The form should also be completed whenever there is a change in the traveler's tax home status. The traveler should retain the *Tax Home Determination* worksheet for their tax files. The Company should not receive or retain the worksheet.

4. Who makes the final determination on whether the traveler has a permanent tax home? Because the determination of the tax home status is sensitive to the facts and circumstances of the traveler and can be highly subjective, the traveler (in consultation with his/her tax advisor) must make the final determination and does so with the execution of the *Tax Home Representation Form*. The final conclusion resides with the traveler, hopefully in consultation with their tax advisor.

5. Who monitors the commuting and one-year limit rules?

The recruiter with the consultation of the Payroll and Tax Departments should monitor both of these rules and inform the traveler of potential non-qualifying status since the tax treatment may be a critical factor whether the traveler accepts the assignment or assignment extension. The one-year limit can easily be evaluated prior to each assignment extension and the time and distance criteria for commuting can be preliminarily determined from Internet mapping sites such as MapQuest.

6. Why is the *Housing Allowance Representation Form* required?

In order to pay a tax-free housing per diem, not only do the requirements listed in 1. above need to be met, but the company must also have a "reasonable belief" that temporary lodging expenses are actually incurred by the traveler while away from their tax home on assignment. This form provides "reasonable belief".

Tax information contained in this document is not intended to be used, and cannot be used, by any person as a basis for avoiding tax penalties that may be imposed by the IRS or any state. We recommend each taxpayer seek advice based on their circumstances from an independent tax advisor.

STATE TAXES

FREQUENTLY ASKED QUESTIONS

1. Is state income tax withholding required for the worksite state(s) and/or my state of residence (home state)?

Most states subject workers to taxation in the state where the work is performed regardless of the worker's state of residence. Generally, there is no minimum work period in terms of days or weeks to avoid the worksite state taxation. Worksite state withholding might not apply if the income is below the state's minimum amounts, but this is unlikely for a professional's compensation level, even for just a week. Certain neighboring states do have reciprocity agreements where the states agree the worksite state will not require withholding of income tax from compensation paid to a nonresident. State withholding will be made for the worksite state unless your home state and worksite state have a reciprocity agreement. Where the worksite state has no income tax or has a tax rate lower than your home state, your home state may require withholding to the extent their tax rate is greater. Certain home states may require full income tax withholding regardless of the treatment or magnitude of the withholding in the worksite state; this amounts to double tax withholding. This double tax withholding should be partially or fully eliminated through tax credits claimed on the home state annual income tax return (see discussion below).

2. Am I required to file a state income tax return in the worksite state(s)?

You will generally be required to file a state income tax return for the worksite state if it has a personal income tax. Assuming you are claiming an appropriate amount of exemptions on Form W-4, the required withholding on your compensation should approximate the return liability so that any payment or refund due on the return should be minimal. Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee, Texas, Washington, and Wyoming do not have an income tax on personal services (wages).

3. What income is taxed in my home state and the worksite state(s)?

Only the compensation you earned from an assignment in the worksite state should be subject to tax in the worksite state. However, generally all income you earn (including out-of-state compensation) will be subject to tax in your home state. Your home state will generally provide you a full or partial credit for the taxes paid to the worksite state(s). The credit process on your home state tax return should partially or fully eliminate the double tax, except to the extent the worksite state has a higher tax rate than your home state.

4. Won't my working in multiple states make my year-end income tax return filings more complex?

Yes, you may have state income tax filings in two or more states including your tax home state. If you are a tax savvy do-it-yourselfer, reasonably priced tax compliance software can expedite the process. Otherwise, we recommend you arrange for a tax professional to prepare these returns on your behalf. Each non-resident state filing might add from \$25 to \$150 to their fees.

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HOUSING ALLOWANCE REPRESENTATION FORM

In order to receive a housing allowance tax-free, I understand that in addition to the tax-home, commuting and one-year limit rules, I must incur lodging expenses for temporary overnight stays because the assignment requires me to be away from my permanent tax home.

For this purpose, "lodging expenses" might include motel costs, apartment or apartment sharing rent and utilities (gas, electric, and water). Personal expenses for items such as cable TV, telephone, internet service, etc. do not qualify as lodging expenses for this determination.

By signing below, I attest that I am or will be incurring temporary lodging expenses while I am working at the temporary assignment in

(city & state) _____ that starts(date) _____ while away from my regular tax home.

I agree to notify Therapeutic Resources immediately if my situation changes.

Signature : _____ Date: _____

Printed Name

Return completed form with packet or with your first time sheet

For housing allowances to be considered non-taxable, this completed form must be received with or prior to receipt of the first time sheet for your assignment. If completed form is received after any allowances have been paid, no retroactive payroll tax withholding adjustments will be made.



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Tax Home Representation Form

I have completed the Tax Home Status Determination worksheet and consulted with my tax advisor, as I believe appropriate, and now make the following good faith determination (*please check the most appropriate box below*):

A. I maintain a permanent tax home and the address of that tax home is (mandatory, no PO box consistent with my W-4):

I understand that I will be required to make this representation periodically. If my permanent tax home changes, I must notify the Company immediately. I also understand that as generally required by state tax law (except for certain states with reciprocity), state income taxes will be withheld from my taxable compensation based upon the state of my assignment. In some cases partial withholding will also be required for my tax home state and for a few states, both state taxes must be fully withheld. I further understand that this representation does not guarantee my travel-related expenses will be tax-free, as the commuting and one year limitation rules must also be considered for each assignment.

or

B. I do **not** maintain a permanent tax home. As such, I understand the IRS considers my tax home the temporary lodging for the temporary assignment.

I understand that without a permanent tax home, all lodging costs or allowances, mileage reimbursements and other transportation costs, and meal & incidental per diem benefits paid me or provided on my behalf will be treated as taxable compensation reported on Form W-2 subject to applicable payroll taxes. I further understand that only the state income tax for the assignment state will be withheld.

Print Name

Social Security Number

Signature

Date



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Tax Home Determination Worksheet

This worksheet is provided to assist you in determining whether you have a permanent tax home as defined by the IRS in Revenue Ruling 73-529, and therefore determine the tax status of the travel costs and/or allowances provided you or paid on your behalf while on assignment. Because of the critical nature of this determination, we encourage you to consult with a tax advisor. This worksheet is for your personal use and should not be returned to the Company.

Please check appropriate boxes below:

YES 11 11 NO	1	Do you perform a portion of your business or work in the vicinity of your permanent tax home? <i>Many travelers will not meet this requirement, as they do not have regular work or business in the tax home area.</i>
YES 11 11 NO	2	Are you duplicating living expenses (mortgage, rent, utilities, etc.) to maintain the permanent tax home while away from home on assignment? <i>Limited IRS guidance provided, but as a minimum the duplicate expenses to maintain the tax home should exceed \$250 per month.</i>
YES 11 11 NO	3.	Do you meet one or more of the following criteria regarding your permanent tax home? a. Have a member of your family (spouse, child, or parent) residing with you in the permanent tax home? YES 11 11 NO b. Use the permanent tax home frequently for lodging? <i>Limited IRS guidance provided, but the return home trips should be more than a few times a year and one or more of the trips should be much longer than a long weekend.</i> YES 11 11 NO c. The permanent tax home represents a historical place of lodging? <i>This means the tax home vicinity is where you grew up, went to college, or have recent and long-term ties to the community.</i> YES 11 11 NO

IF you responded YES to all three questions above, then you have a permanent tax home and should check **Box A** on the Tax Home Representation Form.

IF you responded NO to two or more of the three questions above, then you do not have a permanent tax home and must check **Box B** on the Tax Home Representation Form.

IF you responded YES to two of the three questions, then you must consider the following potential “facts and circumstances” attributes to determine whether you have a permanent tax home. All questions do not necessarily require a YES answer to secure a favorable result, but certainly the majority should have a YES response, and the first four questions are of particular importance.

YES 11 11 N	Is the tax home address your address of record and from which you file your income tax returns?
YES 11 11 N	Do you have telephone service at the tax home or is it your primary mailing address?
YES 11 11 N	Are your auto license plates and driver’s license registered with your tax home city?
YES 11 11 N	Is the tax home address the address of record for your professional license(s)?
YES 11 11 N	Is your banking relationship with a bank in your tax home vicinity?
YES 11 11 N	Are you registered to vote (and actually vote) at your tax home precinct?
YES 11 11 N	Do you have church, club, or other associations in your tax home vicinity?



Other Tax Rules to Consider . . .

One-Year Assignment Limit

If your assignment (including extensions) is expected to last more than one year, tax law dictates that the location of your assignment will be your tax home regardless of your permanent tax home status. Then, all transportation, meal, and lodging allowances paid to you or paid on your behalf must be treated as taxable compensation to you. These travel allowances and costs become taxable as soon as it becomes known the assignment will last longer than one year. That is, once an assignment has been extended to the point where it will lapse over the one-year anniversary date, the travel expenses will become immediately taxable with the execution of the extension, not on the 366th day of the extended contract.

Commuting

If you are working on assignment within typical commuting distance from your permanent tax home, then any transportation, lodging, and meal allowances provided must be treated as taxable compensation. Commuting is generally referred to as within the worker's metropolitan area or broader rural geographic area. It is generally the common-practice, reasonable daily commute for the area. An undocumented, one-way commuting rule of thumb might be as long as 50 miles or 2 hours in an urban or suburban area and 100 miles or 1_ hours for a rural area.

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