

WRITING OFF THE BETTER HALF

BY RICHARD HARTZMAN

Bringing a spouse to a meeting or convention often enhances the pleasure and usefulness of the experience. In fact, some employers consider spouse attendance so important that they require it at certain meetings. But . . . does the IRS allow a tax deduction for the expense of bringing a spouse?

Yes, but only if a basic test is met: The taxpayer must show to the IRS's satisfaction that the spouse's presence served a bona fide business purpose.

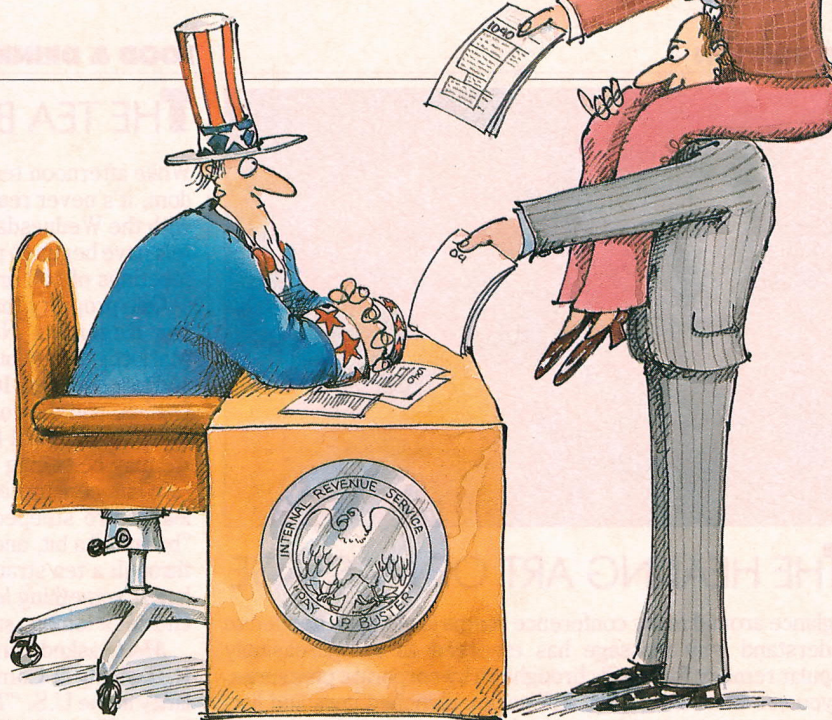
COMPANY VS. COMMISSIONER

From the corporate meeting planner's point of view, the most relevant aspect of the write-off question is whether a company can deduct spouse expenses that are reimbursed to employees or otherwise borne by it.

In this case, the company—just like an individual taxpayer—must satisfy the IRS that the presence of a spouse contributed substantially to the conduct of the business at hand. If it can, the outlay is treated as an ordinary and necessary business expense—rather than as additional compensation to the employee—and taxes need not be paid on it.

An instructive example is a case decided in 1977 by the United States Tax Court, *Bank of Stockton v. Commissioner*. The court ruled that the bank, which customarily required the wives of officers to attend various conventions, could deduct, as a business expense of the bank, the convention expenses of those wives. The wives were required to attend the conventions to assist their husbands in developing and renewing personal contacts with other bankers. Wives were expected to attend general business sessions, as well as special educational sessions set up for them. They organized and hosted numerous convention activities and entertained bankers with whom their husbands transacted business and from whom they sought advice.

The conclusion to be drawn from this case is that spouse expenses are deductible when a spouse's attendance is required at conventions, if the reasons for attendance are related to the business purpose of the taxpayer and the spouse



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substantially participates in convention activities.

THE INDIVIDUAL ATTENDEE

The individual meeting or convention attendee who pays a spouse's expenses can write them off if he or she can show that the spouse actively aided in concluding a business deal or played some other substantive part in the business of the meeting.

The taxpayer must show that the trip was not primarily a vacation for the spouse. And, while his or her expenses may be deductible if the services provided largely comprised socializing with business acquaintances and their husbands and wives, it must be demonstrated that those activities were necessary to enhance the taxpayer's business image. Generally speaking, such incidental services as attending or hosting social functions or occasionally typing up notes do not by themselves satisfy the IRS requirement.

However, the probability of an IRS deduction is increased if the spouse assists the taxpayer in his or her work when not traveling or if he or she knows the business. If, for example, the spouse is a former employee of the company sponsoring or being represented at a meeting, allowance for a deduction is more likely.

If a spouse's expenses are not deductible, the taxpayer still must pay taxes

only on the *extra* expenses incurred by having him or her go along. This, if a double room costs \$90 a day and a single room costs \$75, the \$75 is a deductible expense and the \$15 is non-deductible. The total expense of a car rental is deductible—because the cost would be the same with or without a spouse—but if a couple flies or takes public transportation, the cost of only one ticket is deductible. Obviously, a meeting or business trip can be a bargain vacation for a spouse even if his or her expenses are not deductible.

KEEPING RECORDS

The taxpayer must keep a careful record of spouse activities at a convention. If the IRS conducts an audit, the taxpayer will be required to substantiate such activities and the expenses incurred for them. The government will want proof of the amounts, times, places and business purposes of the expenditures. The taxpayer must keep receipts and should maintain a log.

Deductibility can never be guaranteed, but if the spouse's activities are integral to a meeting, the IRS ruling is likely to be favorable. ■

Richard Hartzman is a member of the bar in New York and Colorado. He practices law in New York City and writes for *M&C* on a variety of subjects. We urge meeting planners to send in questions and experiences that relate to the law and their profession.