

Employer Expense Reimbursement Plan (Arrangements)

Presented by:
Carolyn Quill & Suzanne Juba



PRESENTERS



Carolyn C. Quill, CPA, JD, LL.M.

Principal



Suzanne Juba, CPA

Supervisor

WHAT MAKES AN EMPLOYER EXPENSE REIMBURSEMENT ARRANGEMENT MORE PREVELANT NOW?



Under the new tax law enacted as part of the Tax Cuts and Jobs Act, as of 01/01/2018, an employee will no longer be able to deduct unreimbursed employee business expenses on their individual tax returns as miscellaneous itemized deductions.



Employer can help mitigate the employee's loss of the unreimbursed business expense deduction by having an accountable reimbursement plan in place as opposed to a non-accountable plan.

ACCOUNTABLE VS. NON-ACCOUNTABLE PLAN

Accountable Reimbursement Plan (ARP)	Non-Accountable Plan
An employee reimbursement or other expense allowance arrangement that requires employees to prove a business connection, substantiate expenses, and return unsubstantiated amounts. Payments under such a plan are:	An employee reimbursement or other expense allowance arrangement that does not meet the requirements of an “accountable plan”. Payments under such a plan are:
<ul style="list-style-type: none">• Deductible by the employer as business expenses	<ul style="list-style-type: none">• Deductible by the employer as employee compensation
<ul style="list-style-type: none">• Excluded from the employee’s gross income	<ul style="list-style-type: none">• Included in the employee’s gross income
<ul style="list-style-type: none">• Exempt from withholding and employment taxes	<ul style="list-style-type: none">• Reported on the employee’s form W-2• Subject to income tax withholding and employment taxes

IRS Treasury Regulation 1.62-2(c)(2)

IRS Treasury Regulation 1.62-2(c)(3)

KEY ELEMENTS OF ESTABLISHING AN ARP

Requirements:

Amounts are treated as paid under an accountable plan if they are paid under a reimbursement or other expense allowance arrangement that meets the following:

- ✓ A business connection requirement; **AND**
- ✓ A substantiation requirement; **AND**
- ✓ A requirement that amounts received in excess of expenses be returned



KEY ELEMENTS OF ESTABLISHING AN ARP

Written Policy/Document:

Once the above are met, the employer should adopt a clear and concise written accountable plan document or policy statement that clearly spells out the details of the plan and the conditions imposed on expense reimbursement and allowances:

- Expenses that will be reimbursed
- Method on how to be reimbursed
- Specific documentation required
- Timing of reimbursement reporting



Employer should also employ some type of internal compliance to ensure all employee reimbursements are adequately received and records maintained.

REASONABLE PERIOD OF TIME FOR REPORTING

*How often does the substantiation have to occur?
Monthly? Yearly? Doesn't matter?*



The IRS states that “reasonable period of time” depends on the facts and circumstances of the situation.

Fixed Date Method

You receive an advance within 30 days of time you have an expense

You adequately account for your expenses within 60 days after they were paid or incurred

You return any excess reimbursement within 120 days after the expense was paid or incurred

Periodic Statement Method

You are given a periodic statement (at least quarterly) that asks you to either return or adequately account for outstanding advances and you comply within 120 days of the statement.

WHAT IF AN EMPLOYEE DOES NOT FOLLOW THE PLAN REQUIREMENTS?

The requirements for an accountable plan generally apply on an employee-by-employee basis. Thus, the failure by one employee to meet the requirements will not disqualify reimbursements or allowances for other employees from accountable plan treatment. (Nor will other reimbursements to the same employee that meet the accountable plan requirements necessarily be tainted.) This is called the “automatic” plan-splitting rule. Therefore, if one employee fails to substantiate an advance provided within the reporting time or return the excess, the amount of the unsubstantiated advance will be reported to the employee under the non-accountable plan rules. Amount will be added to the employee’s wages and subjected to payroll and withholding taxes.



USE OF PER DIEM TRAVEL ALLOWANCE

Per Diem allowance is also an allowable plan reimbursement under an ARP as long as it meets all of the requirements of an accountable plan as stated above. But, per diem reimbursements are only allowed for ordinary and necessary business expenses incurred by an employee for either lodging, meal, and incidental expenses, or for meal and incidental expenses for travel away from home.

USE OF PER DIEM TRAVEL ALLOWANCE (CONT.)



If an employer chooses to utilize per diem method the following is required:

- Per diem allowances paid from the accountable plan are not subject to FICA, FUTA, or federal income tax withholding
- Since per diem rates are used, employees only have to account for time, place, and business purpose of travel and will be reimbursed based on the employers per diem rate stated in the plan
- Under the per diem allowance method, the amount that is deemed substantiated is equal to the lesser of the actual per diem rate established by an employer for locality or the amount computed under the federal per diem rate for the locality of travel for the period the employee is away from home

USE OF PER DIEM TRAVEL ALLOWANCE (CONT.)



- The federal per diem rate is equal to the federal lodging expense rate plus the federal meals and incidental expense rate for the locality of travel
- If the employers per diem rate exceeds the federal per diem rate, the employee must substantiate expenses in excess of the federal rate or the unsubstantiated income **will** be treated as income

TAX TREATMENT



If the employer's plan meets the requirements of an ARP, and the employee follows the rules of the plan, then the reimbursements and/or allowances received by the employee will not be included in the employee's wages and the employer expenses the reimbursements as ordinary business expenses.



But, if reimbursement payments are made under a non-accountable plan, the amounts are included in the employee's wages, subject to payroll taxes: Social Security, Medicare, and withholding, and the employer receives a deduction for wages paid.

WITHHOLDING & REPORTING EMPLOYEE EXPENSE REIMBURSEMENT CHART

Type of Reimbursement	Withholding & Payment of Employment Taxes	Form W-2 Treatment
Overall Accountable Plan		
1. Adequate substantiation and return of any excess advance	Not Required	No W-2 Reporting
2. No substantiation	No later than 1 st payroll period following end of reasonable period	Taxable wages [boxes 1, 3 (subject to the max SS wage base), & 5]
3. Partial substantiation and return of excess (unsubstantiated) amount	Not Required	No W-2 Reporting
4. Partial substantiation and no return of excess amount		
a. Amount substantiated	Not Required	No W-2 Reporting
b. Unreturned excess advance	No later than 1 st payroll period following end of reasonable period	Taxable wages [boxes 1, 3 (subject to the max SS wage base), & 5]

WITHHOLDING & REPORTING EMPLOYEE EXPENSE REIMBURSEMENT CHART (cont)

Type of Reimbursement	Withholding & Payment of Employment Taxes	Form W-2 Treatment
5. Advance or reimbursement of nondeductible business expenses	Generally when paid	Taxable wages [boxes 1, 3 (subject to the max SS wage base), & 5]
6. Advance or reimbursement of nonbusiness expenses	When paid	Taxable wages [boxes 1, 3 (subject to the max SS wage base), & 5]
Overall Nonaccountable Plan	When paid	Taxable wages [boxes 1, 3 (subject to the max SS wage base), & 5]



ADDITIONAL ITEMS TO NOTE WHEN ESTABLISHING AN ARP



- Employer can have separate non-accountable reimbursement plans. This can be useful where the employer reimburses nonbusiness expenses or knows and employee will not comply with the accountable plan requirements for certain types of expenses.
- The employer does not want to utilize an ARP as a form of disguised salary or salary reduction. For example: If an employer arranges to pay an amount to an employee regardless of whether the employee incurs (or is reasonably expected to incur) business expenses stated in the plan, the arrangement does not satisfy the requirements of an ARP and all amounts paid under the arrangement are treated as paid under a nonaccountable plan, to all employees.