PLEA FOR THE REINSTATEMENT OF A KEY INTERNAL REVENUE CODE: THE HOME OFFICE DEDUCTION

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dx.doi.org/10.18374/JIBE-23-3.2

ABSTRACT

Under the Internal Revenue Code, taxpayers used to be able to deduct all of their "ordinary and necessary" expenses in conducting a trade or business or in the production of their income, including the expenses of setting up and maintaining an office, even if that office were located in a section of their home. With the great technological advances of the internet, making telecommuting (or working at home) commonplace, the deductions of home office expenses became very important to many taxpayers.

After a period of relative ease and certainty about claiming the "home office" deductions on their tax returns, taxpayers began to lose that privilege, mainly because of a series of restrictive tests imposed by the Internal Revenue Service (IRS); several taxpayers fought back and the courts at first sided with them, rebuking the IRS. The issue went back and forth, alternating success and defeats between the taxpayers and the IRS until some very restrictive criteria effectively deprived most taxpayer employees of that deduction.

Now, with the Coronavirus complicating the operations of businesses, causing several corporations and even the federal government to allow employees to permanently work remotely, the "home office" deduction has taken on new urgency. After examining a number of court cases, and the IRS tightened requirements for the deduction of the home office expenses, this paper makes a plea for the reinstatement of that key deduction for every taxpayer, both self-employed and employees, even if their employers provide them with an office at work. This is simply an idea whose time has come and one that would provide much-needed deduction to taxpayers facing the significant burden of adapting to a changing business climate.

Keywords: *Home office deduction, Internal Revenue Code, Internal Revenue Service, Tax Court*

1. INTRODUCTION

Rarely, have the authors of the article taken a position advocating a policy proposal over another one, preferring to expose the qualities and disadvantages of specific proposals, as regards to our theory of the soundness of "a correct theoretical and conceptual framework requires that some favorable, …desirable provisions in the Internal Revenue Code should be either modified, adjusted, or abolished… (Banatte, Wu and Chen, 2016). But it appears to us that in the current debate about "Tax Reform", a specific proposal has also the merit of being a sound policy that merits serious consideration, but as a constructive idea, given the peculiar circumstances visited on the nation by the coronavirus epidemic over the last few years. Rarely has good politics so specifically met with sound policy. We are referring to "The Home Office Deduction", eliminated by the 2017 Tax Cuts and Jobs Act for tax years 2018-2025. Prior to tax reform, a person working at home for an employer was allowed "to deduct unreimbursed business expenses, including the cost of a home office, as long as the expenses exceeded 2% of their adjusted gross income" (Block, 2020) on Schedule A. Exhibit 1 shows that in tax year 2017, Schedule A Line 21 allowed a taxpayer to claim unreimbursed employee expenses. Exhibit 2 shows that the line for unreimbursed employee expenses has been dropped from Schedule A for later tax years.

The Coronavirus pandemic has recently drastically changed the conduct of business in America and the world. Schools, universities, airlines, and businesses have altered the way they conduct their operations: more and more organizations are operating at a distance, online, remotely. Many very large corporations are