

## When the Second Office in the Home Is a Principal Place of Business

When possible, you want to claim that your office in your home qualifies as a principal place of business because this classification

- gives you the home-office deduction, and
- eliminates commuting from your home to your regular office.

Current law gives you two ways to claim your office in the home as a principal office:

- First, as a principal office under the rules that the Supreme Court finalized in *Soliman*
- Second, as a principal office under the alternative after-*Soliman* rules, wherein lawmakers added this alternative: "... the term principal place of business includes a place of business which is used by the taxpayer for the administrative or management activities of any trade or business of the taxpayer if there is no other fixed location of such trade or business where the taxpayer conducts substantial

administrative or management activities of such trade or business”

Question for you: If you have an office downtown where you spend 40 hours a week, can you claim that you have an office in your home that qualifies as a principal office if you spend only 12 hours a week working in the home office? If you said no, you are not alone. But you would also be wrong.

With the administrative or management rule, you can have your principal office in your home with 12 hours of work a week, even when you work at your other office for 40 hours.

## How to Calculate and Improve Your QBI from a Partnership

A general partner is taxed on partnership income that comes to him or her in the form of guaranteed payments and profit distributions. Profit distributions are qualified business income (QBI) for the Section 199A 20 percent tax deduction. Guaranteed payments and Section 707(a) payments are not QBI.

To increase QBI, you need to increase the profit distributions and reduce the guaranteed and Section 707(a) payments. Getting to this simple solution is not so easy; after all, this is tax law.

Two points to consider: First, are the guaranteed payments really guaranteed payments or simply a

lazy man's way to distribute profits? Second, should you use the more sophisticated Section 704 partnership allocation rules to get the results you want?

## How to Deduct Medicare as a Business Expense

Premiums for Medicare health insurance can add up to a substantial sum. That's especially true if

- you have a high income, and
- you're married and both you and your spouse are paying premiums.

Fortunately, the premiums can potentially help your tax situation. The dollar benefit of Medicare tax deductions depends greatly on where you can deduct the premiums:

- The business deduction produces the maximum tax benefit.
- The self-employed health insurance deduction on line 29 of Schedule 1 of your Form 1040 produces the second-best benefit.
- The itemized deduction is either useless or produces the third-best benefit.

### Number 1: The Business Deduction

You flat out get the best dollar benefit from your Medicare and supplemental insurance premiums when you can deduct them as business deductions. You can make this happen when:

- You are the sole owner and only employee of your C corporation.
- You operate as a sole proprietorship or single-member LLC, and your spouse is your only employee.
- You operate as a C corporation and have 20 or fewer employees to whom you offer group health insurance.
- You operate as a C corporation, either you or your spouse is an employee, and you offer a qualified small employer health reimbursement arrangement (QSEHRA).

### Second Best: Self-Employed Health Insurance Deduction

If you are self-employed as a sole proprietor, an LLC member treated as a sole proprietor for tax purposes, a partner, an LLC member treated as a partner for tax purposes, or an S corporation shareholder-employee, you can potentially claim an above-the-line deduction for your health insurance premiums—including Medicare premiums.

You don't need to itemize deductions to get the tax-saving benefit from this above-the-line self-employed health insurance deduction. According to IRS Publication 535 (Business Expenses), the health insurance coverage must be established or considered to be established for your business as per the following explanations.

### If You Are a Sole Proprietor

If you are a sole proprietor or an LLC member treated as a sole proprietor for tax purposes who files Schedule C, a health insurance policy can be in the name of your business or in your own name. Premiums you pay for Medicare health insurance in your name can be used to figure the above-the-line deduction for self-employed health insurance.

## If You Are a Partner

If you are a partner or an LLC member treated as a partner for tax purposes, a health insurance policy can be either in the name of the partnership (LLC) or in your own name. You can pay the premiums yourself, or the partnership (LLC) can pay them and report the premium amounts on your Schedule K-1 as guaranteed payments that you must include as income on your Form 1040.

But if the policy is in your name and you pay the premiums yourself, the IRS says the partnership (LLC) must reimburse you and report the premium amounts on your Schedule K-1 as guaranteed payments that you must include as income on your Form 1040. Otherwise, the IRS says the insurance won't be considered established for your business and you will not qualify for the deduction. The tax code allows the partnership (LLC) to deduct its guaranteed payments.

## If You Are an S Corporation Shareholder-Employee

If you are a shareholder-employee who owns more than 2 percent of the S corporation, a health insurance policy can be either in the name of the S corporation or in your own name. You can pay the premiums yourself, or the S corporation can pay them and report the premium amounts on your Form W-2 as additional taxable wages.

But if the policy is in your name and you pay the premiums yourself as you would for your Medicare coverage, the IRS says the S corporation must reimburse you and report the premium amounts on your Form W-2 as additional taxable wages. Otherwise, the IRS says the insurance won't be considered established for your business.

## What about a Spouse's Medicare?

In guidance, the IRS makes it clear that the S corporation and the partnership can reimburse to the shareholder-employee the spouse's Medicare payments, and that reimbursement establishes the insurance in the business's name. The S corporation then adds the reimbursement to the shareholder's W-2, and the partnership treats the reimbursement to the partner as a guaranteed payment.

The treatment described above creates the tax deduction for the spouse's cost of Medicare (including supplemental insurance). If you operate as a proprietorship, we recommend having the proprietorship reimburse the nonowner spouse to establish the Medicare insurance in the name of the business.

## Employee Recreation and Parties Survive TCJA Tax Reform

When you know the rules, you can party with your employees and deduct 100 percent of the cost. Interestingly, if you feed your employees during a training program, your deduction is only 50 percent. Make sure you know the rules that give you the 100 percent deduction for employee entertainment.

The IRS says that the following types of entertainment qualify for the 100 percent employee entertainment tax deduction:

- Holiday parties, annual picnics, and summer outings
- Maintaining a swimming pool, baseball diamond, bowling alley, or golf course

The IRS makes it clear that the above are examples and that other types of entertainment may also qualify for the 100 percent entertainment deduction. The tax code states that “expenses for recreational, social, or similar activities (including facilities therefor) primarily for the benefit of employees” qualify for the 100 percent deduction.

## Who Are These Employees?

Technically, the law requires that the entertainment expenses be primarily for the benefit of employees other than a “tainted group.” The tainted group consists of

- a highly compensated employee (an employee who is paid more than \$125,000 in 2019);
- anyone, including you, who owns at least a 10 percent interest in your business (this is called a “10 percent owner”); or
- any member of the family of a 10 percent owner, i.e., brothers and sisters (including half brothers and half sisters); spouses; ancestors (parents, grandparents, etc.); and lineal descendants (children, grandchildren, etc., including adoptees).

As the business owner, you belong to the tainted group. That’s not a big deal. You just need to make

sure that partying with the employees is primarily for the benefit of the employees.

## “Primary” Means “More Than 50 Percent”

In tax law, the words “primary” and “primarily” mean “more than 50 percent.” For employee recreation, that means the untainted group of employees has to have more than 50 percent use of the entertainment facility, or in the case of a party, a majority of the attendees come from the untainted employee group.

**Documentation tip.** You can measure “primary” by days of use, time of use, number of employees, or any other reasonable method. Regardless of how you measure use, the keys to your deductions are the records that prove the uses.