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One Big Beautiful Bill Act, H.R. 1 - 119th Congress (2025-2026): Part VIII - Worker Moving Expenses

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In this eighth installment of my multi-part series on the One Big Beautiful Bill Act (the "Act"), I discuss provisions of the Act that impact the taxation of worker moving expenses.[1]

Background

Historically, provided certain requirements were satisfied, Code Section 217 allowed a deduction for moving expenses paid or incurred by an employee or self-employed person in connection with his or her work. For this purpose, moving expenses are generally defined as reasonable expenses incurred in moving household and personal effects and travel costs (excluding meals).

The requirements for the deduction are straightforward but stringent.

- The new place of work must be at least 50 miles farther away from the worker's former personal residence than the former place of work was (or if the taxpayer had no former place of work, it must be at least 50 miles from his or her former residence).
- During the 12-month period immediately following arrival in the area of the new workplace, the taxpayer must be a full-time employee during at least 39 weeks. Alternatively, during the 24-month period immediately following arrival in the area of the new workplace, the taxpayer must be a full-time employee or perform services as a self-employed person on a full-time basis in that general location during at least 78 weeks, of which 39 weeks or more are during the initial 12-month period.

Code Section 217(d) contains exceptions to the above requirements in the case of the death or disability of the taxpayer or involuntary separation from employment (other than due to willful misconduct). Additionally, Code Section 217 contains special rules for members of the U.S. Armed Services, moves outside the United States, and moves by retirees who were working abroad.

Code Section 132(a)(6) provides that gross income does not include a "qualified moving expense reimbursement." A qualified moving expense reimbursement is defined for this purpose under Code Section 132(g)(1) as "any amount received (directly or indirectly) by an

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individual from an employer as a payment for (or a reimbursement of) expenses which would be deductible as moving expenses under Code Section 217 if directly paid or incurred by the individual."

Accordingly, Code Sections 217 and 132 afforded workers who were required to move for work, provided certain requirements were satisfied, a deduction for the reasonable expenses associated with the move, or, in the case where the employer reimbursed the worker for the moving expenses, an exclusion from taxable income.

Tax Cuts and Jobs Act of 2017 (Public Law No. 115-97) ("TCJA")

The TCJA changed the terrain in terms of worker moving expenses. With the enactment of two provisions, it temporarily suspended the moving expense deduction and the employer-reimbursed moving expense exclusion.

The TCJA added Code Section 217(k):

"Except in the case of an individual to whom subsection (g) applies [member of the armed services], this section shall not apply to any taxable year beginning after December 31, 2017, and before January 1, 2026."

The TCJA added Code Section 132(g)(2):

"Except in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station, subsection (a)(6) shall not apply to any taxable year beginning after December 31, 2017, and before January 1, 2026."

To the glee of workers and employers, the TCJA's suspension of these two Code provisions was set to sunset at the end of 2025. The Act changed things in that regard.

The Act and Its Impact on Code Sections 217 and 132

Section 70113 of the Act impacts these Code sections in two respects.

First, it makes Code Sections 217(k) and 132(g)(2) so-called permanent provisions of the Code. Consequently, the moving expense deduction under Code Section 217 and the employer-reimbursed moving expense exclusion under Code Section 132 are permanently suspended.

Second, the U.S. Armed Services exception continues (i.e., Code Sections 217 and 132 continue to apply to members of the U.S. Armed Services). However, the Act extends the reach of this exception to members of the intelligence community. For this purpose, members of the intelligence community include "an employee or new appointee of the

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intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) (other than a member of the Armed Forces of the United States) who moves pursuant to a change in assignment that requires relocation after a change ... of station."

Conclusion

Aside from the preexisting U.S. Armed Services and the newly created intelligence community exceptions, the moving expense deduction under Code Section 217 and the employer-reimbursed moving expense exclusion under Code Section 132 are not coming back to life in 2026. Unless lawmakers act, they are dead!

PRACTICE ALERT: To avoid being caught off guard, workers and employers alike need to understand (if the worker does not qualify for the U.S. Armed Services or intelligence community exceptions) certain basic rules. These rules must be adhered to:

- If a worker receives an employer-provided moving expense reimbursement, the employer is required to include the reimbursed amounts in the worker's compensation and report such amounts on IRS Form W-2 (or IRS Form 1099 in the case of a self-employed worker). Consequently, the worker will be subject to income taxes and payroll taxes (e.g., Social Security and Medicare taxes in the case of an employee or self-employment taxes in the case of a self-employed person) on the amount received. Additionally, in the case of a worker who is an employee, the employer has the obligation to withhold income taxes and withhold and contribute the employer portion of the payroll taxes on the amount of the reimbursement.
- In the case where the moving expenses are not reimbursed by the employer, the worker may not deduct the expenses on his or her federal individual income tax return.

Stay tuned for more installments in my multi-part series on the Act!

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[1] All references to "the Code" are to the Internal Revenue Code of 1986, as amended.

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Tagged as moving expenses, OBBBA, self-employed individuals, Tax Cuts and Jobs Act, The One Big Beautiful Bill Act

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