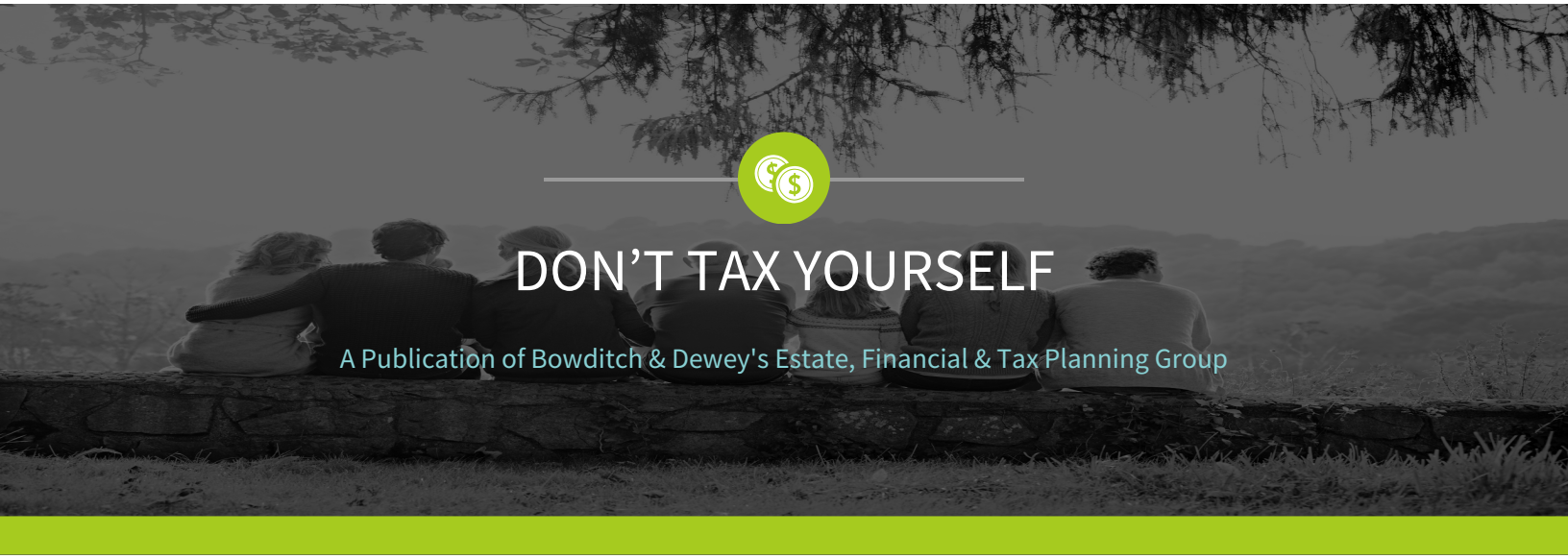


DON'T TAX YOURSELF

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Home Office Deductions During Coronavirus

BY SCOTT C. CASHMAN • JUNE 15, 2020

With so many people forced by government ordered shut downs to work from home, a question many workers might ask is whether they can deduct expenses for their home offices.

As a general rule, expenses that otherwise might be deductible are disallowed with respect to a "dwelling unit" used by a taxpayer as a residence. However expenses are allowed for a home office if "a portion of the dwelling unit" is used regularly and exclusively:

1. as a taxpayer's principal place for any trade or business;
2. as a place where patients, clients, or customers regularly meet or deal with a taxpayer in the normal course of business; or
3. in the case of a separate structure not attached to the residence, in connection with a taxpayers business.

In addition, expenses attributable to business use may also be deductible if the use of the home is used regularly though not exclusively 1) for storage of inventory, product samples in a taxpayer's trade or business or (2) to provide licensed daycare services. See IRS publication 587 for a good summary of these rules.

REGULAR USE

Whether a taxpayer satisfies the requirement of regular use is determined on the basis of all the facts and circumstances. Incidental or occasional use does not qualify and the burden is on the taxpayer to prove that a portion of the residence has been used on a regular basis for business purposes.

EXCLUSIVE USE

The requirement that there be an "exclusive use" of a portion of the dwelling unit is satisfied only if there is no use of that portion of the dwelling at any time during the year that is not a qualifying business use. In addition, "a portion of

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the dwelling unit" denotes a room or separately identifiable space. The phrase does not include segmented parts of a single room where furniture utilized for business is physically separated. In addition, if a taxpayer is an employee, the exclusive use above must be for the convenience of the employer.

Assuming the taxpayer qualifies for a home office deduction, it is also important to note that home office expenses cannot exceed gross income from the trade or business less other allowable deductions. In other words, the deductions cannot create a loss. However, excess deductions can be carried over to the succeeding tax year.

Taxpayers who are self-employed or so called "gig workers" will generally complete Form 8829 as part of their Schedule C filing in order to deduct their home office expenses, unless they elect to use the simplified method.

Unfortunately for W2 employees, the Tax Cuts and Jobs Act of 2017 suspended the deduction for miscellaneous itemized deductions that included unreimbursed employee business expenses for tax years 2018 thru 2025. Therefore, many workers sent home by their employers to work during the pandemic cannot deduct any of their home office expense even if they otherwise would qualify.

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