

Memorandum-to-the-File

Date: December 9, 20X1
 From: Rosina Havack

Re: The taxability of meal vouchers furnished by Mercy Hospital to its medical staff.

Facts

[State only the facts that are relevant to the Issue(s) and necessary for the Analysis.] Our client, Mercy Hospital ("Mercy"), provides meal vouchers to its medical employees to enable them to remain on emergency call. The vouchers are redeemable at Mercy's onsite cafeteria and at MacDougal's, a privately owned sandwich shop. MacDougal's rents business space from the hospital. Although Mercy does not require its employees to remain on or near its premises during their meal hours, the employees generally do. Elizabeth Fegall, Mercy's Chief Administrator, has asked us to research whether the value of the meal vouchers is taxable to the employees.

Issues

[Identify the issue(s) raised by the facts. Be specific.] The taxability of the meal vouchers depends on three issues: first, whether the meals are furnished "for the convenience of the employer"; second, whether they are furnished "on the business premises of the employer"; and third, whether the vouchers are equivalent to cash.

Applicable Law

[Discuss those legal principles that both strengthen and weaken the client's case. Because the primary authority for tax law is the IRC, begin with the IRC.] Section 119 provides that the value of meals is excludable from an employee's income if the meals are furnished for the convenience of, and on the business premises of the employer. [Discuss how administrative and/or judicial authorities expound on statutory terms.] Under Reg. Sec. 1.119-1, a meal is furnished "for the convenience of the employer" if it is furnished for a "substantial noncompensatory business reason." A "substantial noncompensatory business reason" includes the need to have the employee available for emergency calls during his or her meal period. Under Sec. 119(b)(4), if more than half the employees satisfy the "for the convenience of the employer" test, all employees will be regarded as satisfying the test. Regulation Sec. 1.119-1 defines "business premises of the employer" as the place of employment of the employee.

[When discussing court cases, present case facts in such a way as to enable the reader to draw an analogy with client facts.] A Supreme Court case, *Kowalski v. CIR*, 434 U.S. 77, 77-2 USTC ¶9748, discusses what constitutes "meals" for purposes of Sec. 119. In *Kowalski*, the State of New Jersey furnished cash meal allowances to its state troopers to enable them to eat while on duty. It did not require the troopers to use the allowances exclusively for meals. Nor did it require them to consume their meals on its business premises. One trooper, R.J. Kowalski, excluded the value of his allowances from his income. The IRS disputed this treatment, and Kowalski took the IRS to Court. In Court, Kowalski argued that the allowances were excludable because they were furnished "for the convenience of the employer." The IRS contended that the allowances were taxable because they amounted to compensation. The U.S. Supreme Court took up the case and decided for the IRS. The Court held that the Sec. 119 income exclusion does not apply to payments in cash.

Analysis

[The analysis should (a) apply applicable law to the facts and (b) address the issue(s). In this section, every proposition should be supported by either authority, logic, or plausible assumptions.]

Issue 1: The meals provided by Mercy seem to be furnished "for the convenience of the employer." They are furnished to have employees available for emergency call during their meal breaks. This is a "substantial noncompensatory reason" within the meaning of Reg. Sec. 1.119-1.

Issue 2: Although the hospital cafeteria appears to be the "business premises of the employer," MacDougal's does not appear to be. The hospital is the place of employment of the medical employees. MacDougal's is not.

Issue 3: [In applying case law to the facts, indicate how case facts are similar to/dissimilar from client facts. If the analysis does not support a "yes-no" answer, do not give one.] Based on the foregoing authorities, it is unclear whether the vouchers are equivalent to cash. On the one hand, they are redeemable only in meals. Thus, they resemble meals-in-kind. On the other hand, they are redeemable at more than one institution. Thus, they resemble cash. Nor is it clear whether a court deciding this case would reach the same conclusion as the Supreme Court did in *Kowalski*. In the latter case, the State of New Jersey provided its meal allowances in the form of cash. It did not require its employees to use the allowances exclusively for meals. Nor did it require them to consume their meals on its business premises. In our case, Mercy provides its meal allowances in the form of vouchers. Thus, it indirectly requires its employees to use the allowances exclusively for meals. On the other hand, it does not require them to consume their meals on its business premises.

Conclusion

[The conclusion should (a) logically flow from the analysis, and (b) address the issue(s).] Although it appears that the meals acquired by the hospital cafeteria are furnished "for the convenience of the employer" and "on the business premises of the employer," their value is unclear whether the vouchers are equivalent to cash. If they are equivalent to cash, or if they are redeemed at MacDougal's, their value is likely to be taxable to the employees. On the other hand, if they are not equivalent to cash, and they are redeemed only in the hospital cafeteria, their value is likely to be excludable.