

Office of Chief Counsel
Internal Revenue Service
Memorandum

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date: March 03, 2006

to: Associate Area Counsel, CC:SB/SE:SF

from: Branch Chief, CC:TEGE:EB:HW

subject: Health Insurance Deduction for Self-Employed Individuals Under I.R.C. § 162(l)

This Chief Counsel Advice responds to your request for assistance dated February 23, 2006 regarding I.R.C. § 162(l). In accordance with I.R.C. § 6110(k)(3), this advice may not be used or cited as precedent.

In our advice to your office dated May 17, 2005, we concluded that a self-employed individual who is a sole proprietor may deduct, pursuant to § 162(l) of the Code and subject to the limitations in § 162(l), insurance costs for the medical care of the sole proprietor and his or her spouse and dependents when the health insurance policy purchased by the sole proprietor is issued in his or her individual name rather than in the name of the sole proprietor's trade or business. You have requested clarification regarding whether sole proprietors may deduct health insurance costs on Schedule C, Profit or Loss From Business.

Under § 162(l)(4), the deduction shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of § 1402(a)) for purposes of Chapter 2. Accordingly, the deduction under § 162(l) must be claimed as an adjustment to gross income on the face of Form 1040. The current 2005 Form 1040 provides for the deduction on Line 29. Therefore, a self-employed individual may not deduct the costs of health insurance on Schedule C.

CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS

None

This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If disclosure is determined to be necessary, please contact this office for our views.

Please call (202) 622-6080 if you have any further questions.

Harry Beker