

Department of Treasury
Internal Revenue Service
Cincinnati, Ohio 45999-0038.

More information

Refer to [Revenue Procedure 2009-51](#) for more information on new procedures. You can also find more information on Form 944 and Instructions for Form 944 at www.irs.gov.

SPECIAL ASSESSMENTS AND REAL ESTATE TAXES

BY STEWART ROULEAU, FSLG SENIOR ANALYST

Real estate taxes are the main source of revenue for most local governments. The annual statements to property owners, indicating the amount of real estate taxes paid, therefore, contain crucial information for the governments and residents alike. Often these statements include listings of other charges, fees, or assessments. Treasurers, comptrollers, and tax assessors for local government should understand the differences between deductible and nondeductible items and issue statements that clearly distinguish between them.

Under IRC section 164, property taxes are deductible from gross income on the federal tax return. To constitute a property tax, a charge must be:

- Based on the value of the property,
- Made uniformly on property throughout the community, and
- Used for general community purposes (i.e., public schools)

Deductible property taxes do not include local or special assessments. Special assessments include charges imposed by government that tend to increase the value of the property, or are dedicated to the improvement of that property. These include assessments for streets, sidewalks, water mains, sewer lines, public parking facilities, and similar improvements. If a special assessment has been made in such a manner as to constitute a tax, and not a fee, and therefore would be deductible except that it has been assessed against local benefits of a kind that tend to increase the value of the property assessed, the amount of the assessment allocable to interest, maintenance and repair charges may still be deductible if the taxpayer can properly show the allocation of the assessment between the deductible and nondeductible portions. There must be a clear delineation or allocation of the items with proper reference to interest and maintenance and repair items. If the taxpayer received no itemized statement with a clear allocation to interest and maintenance and repair items, the taxpayer has no basis for claiming a deduction. If the allocation cannot be made, no part

of the assessment is deductible. Governmental entities should ensure that Forms 1099 issued to report real estate information amounts for special assessments and user fees are reported correctly to help reduce reporting errors by property owners on their individual returns.

Example: The proceeds of a city bond are used to pay for sewers and sidewalks, in a new subdivision. Each year the city assesses a front foot benefit charge against the property benefited by these improvements in order to pay the principal and interest on the bond. This amount is billed to the homeowner on his real estate bill. The bill clearly shows the portion of the tax that is allocated to the interest on the bonds. In order to deduct the amounts allocable to the interest as real estate taxes, the taxpayer must prove the allocation of the assessment between interest and nondeductible purposes. The amounts to pay principal are not deductible as real estate taxes because they are special assessments that benefit the property against which they are assessed.

Amounts that represent service charges or user fees, that reflect a fixed charge for a specific service and are not based on the value of the property, are not real estate taxes and should be identified separately on the tax statement to distinguish them from deductible real estate taxes.

Example: A county imposes a user fee of \$100 solid waste disposal, which is billed with the annual tax on assessed value of \$2500. Regardless of whether the amounts are stated separately, the \$100 is not deductible as real estate taxes on Form 1040.

Fees and local benefit assessments reported on property tax statements that are not clearly identified can create problems for taxpayers who overstate their deductions, and represent a potential revenue loss to governments at all levels. FSLG encourages governmental units to make statements as accurate as possible, clearly identifying all amounts included.

FOREIGN INCOME EXCLUSION FOR INDIVIDUALS PROVIDING PERSONAL SERVICES TO A FEDERAL AGENCY

BY KEVIN MACKESEY, FSLG SPECIALIST (FEDERAL GROUP)

It is important for agencies of the United States to properly establish whether a U.S. citizen or a resident alien of the United States who is providing personal services overseas is a common-law employee. Incorrect classification can result in improper claims by the individual for the foreign earned income exclusion, the foreign housing exclusion, and the foreign housing deduction.