

Tax Credits and Deductions to Assist with Workplace Accommodations

The Internal Revenue Code has two provisions to assist businesses with the cost of providing workplace accommodations. Such accommodations can enable valued employees to maintain their jobs or perform other work within their companies.

The 1990 Americans with Disabilities Act (ADA) requires that employers with 15 or more employees make reasonable accommodations in the workplace for employees with disabilities. Reasonable accommodations must be made on a case-by-case basis and are not required when costs would constitute an undue hardship for an employer.

Disabled Access Tax Credit (Title 26, IRS Code, Section 44). This tax credit is available to “eligible small businesses” in the amount of 50 percent of “eligible access expenditures” that exceed \$250, but do not exceed \$10,250 for a taxable year. A business may take the credit each year that it makes an eligible access expenditure.

Eligible small businesses are those businesses with either \$1 million or less in gross receipts for the preceding tax year; or 30 or fewer full time employees during the preceding tax year.

Eligible access expenditures are amounts paid or incurred by an eligible small business for the purpose of enabling the business to comply with the applicable requirements of the ADA. These include amounts paid or incurred to:

- remove architectural, communication, physical, or transportation barriers that prevent a business from being accessible to, or usable by, individuals with disabilities,
- provide qualified readers, taped texts, and other effective methods of making materials accessible to people with visual impairments,
- provide qualified interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments,
- acquire or modify equipment or devices for individuals with disabilities, or
- provide other similar services, modifications, materials, or equipment.

Expenditures that are not necessary to accomplish the above purposes are not eligible. Expenses in connection with new construction are not eligible. “Disability” has the same meaning as it does in the ADA. To be eligible for the tax credit, barrier removals or the provision of services, modifications, materials, or equipment must meet technical standards of the ADA Accessibility Guidelines. These standards are incorporated in Department of Justice regulations implementing Title III of the ADA (28 CFR Part 36; 56 CFR 35544, July 26, 1991).

Tax Deduction to Remove Architectural and Transportation Barriers to People with Disabilities and Elderly Individuals (Title 26, IRS Code, Section 190).

Businesses may deduct up to \$15,000 of the costs incurred each year for “qualified architectural and transportation barrier removal.” Expenditures to make a facility or public transportation vehicle owned or leased in connection with a trade or business more accessible to, and usable by, individuals who are handicapped or elderly are eligible for the deduction.

The definition of a “handicapped individual” is similar to the ADA definition of an “individual with a disability.” To be eligible for this deduction, modifications must meet the requirements of standards established by IRS regulations implementing this section.