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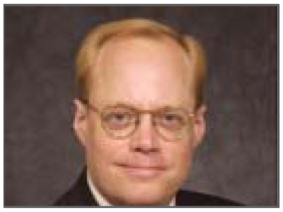

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World Travel, Great. Writing It Off? Priceless

Reading Deborah Jacobs piece, How To Follow Your Dream And Spend Your Retirement Traveling The World, got me thinking. You have to admit it sounds *awfully* good. She describes a kind of fantasy: ditch your possessions and hit the road during retirement. And some people actually do it, including Lynne and Tim Martin.

It even lead to a memoir, *Home Sweet Anywhere: How We Sold Our House, Created a New Life, and Saw the World*. I don't know about their tax situation, but it sounds like a legitimate second professional life to me, and probably was even a money maker. That makes it sound decidedly different from a case about world travel the Tax Court and Ninth Circuit Court of Appeals recently considered.

Traveling the world is great, but you're unlikely to be able to write it off. (Photo credit: archer10 (Dennis))

In Michael Oros, the Ninth Circuit agreed that Mr. Oros couldn't write off his world trip on his taxes. Oros was a full-time employee of Intel. But a trip around the world and writing about it sounded tempting. So in 2006, Mr. Oros began a long to South America, Asia, Africa, and Australia. He traveled throughout South America in 2006, then to Asia, Africa, and Australia during 2007.

Throughout the entire trip, Oros was on paid vacation or paid sabbatical from Intel. He did try to act business-like about it, writing up a business plan and keeping a contemporaneous journal. Trouble was, he had never previously written a book. Even worse, five years *after* the trip, he *still* hadn't completed it.

To the IRS and the courts, that meant he simply wasn't in the business of being an author. And that made all his tax write-offs no good. So for people like me that think a traveling retirement sounds great, will the IRS pay for *your* big trip?

The short answer is no. The more nuanced answer is that it's conceivable, provided that you make it a *real* business. Of course, if you want to enjoy yourself and avoid any IRS hassles my standard advice is to keep your business and personal pursuits separate.

But it can be tempting, as Mr. Oros could attest. Just look at the math. Assuming your combined state and federal tax rate is 45%, spending $20,000 really only costs you $11,000. The government pays $9,000. But be aware it is an area of intense IRS scrutiny.

In fact, the IRS has issued a manual to help agents ferret out taxpayers improperly writing off hobbies. The IRS is less likely to question whether you're engaged in a business if your income from the activity exceeds your expenses. It also matters whether you conduct yourself in a businesslike manner. If you keep good records and hold yourself out as running a business, it will help.

If you can manage to eke out a profit three years out of every five (or two years out of seven, if your activity is horse breeding), the IRS will *presume* you're in business to make a profit. That presumption is worth a lot, saving you from mud wrestling with the IRS over a more amorphous facts and circumstances test.

One of the auditors' checklist items is a business plan. Write one up and try to look businesslike in all things. The more expert you become and the more you engage others, the more businesslike you'll look. If you have advanced degrees or hire consultants to help you, it may be easier to convince the IRS.

Finally, the IRS thinks personal pleasure is an indication that your "business" is a hobby. Don't enjoy it too much. So should you travel the world, write your experiences, and write off your expenses on your taxes? Probably not. And if you do, try not to smile in all of those photos.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.