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## MEMORANDUM

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**DATE:** December 2019

**TO:** EAA® AirVenture® Oshkosh™ 2019 Volunteers

**FROM:** EAA Headquarters, Oshkosh

**RE:** Guidelines for Deducting Out-of-Pocket Expenses Incurred in Connection with Volunteering for EAA® AirVenture® Oshkosh™ or a non-AirVenture related EAA Project

### Introduction

Experimental Aircraft Association, Inc. ("EAA") is an educational and philanthropic organization under Section 501(c)(3) of the Internal Revenue Code. Therefore, EAA members and others who incur out-of-pocket expenses (such as for transportation (including automobile mileage expense), lodging and meals) in connection with volunteer services performed on behalf of EAA may be entitled to deduct all or part of those expenses as a charitable contribution on their personal income tax returns. This includes, but is not limited to, expenses incurred in connection with volunteer services performed in Oshkosh at and during AirVenture, and also services performed at other times and places in support of AirVenture or other EAA projects. This Memorandum sets forth general rules and limitations on deducting such expenses. These rules, however, are complex and the IRS requirements are not particularly clear. For those reasons, this Memorandum is not intended to provide legal advice, and volunteers should consult with their own tax professionals for specific guidance.

Please note that this Memorandum refers to travel to and from Oshkosh, for the sake of simplicity. The same principles and limitations apply to travel between a person's residence and another location where he or she provides voluntary services for the benefit of EAA (or for an EAA Chapter that is classified by the IRS as a 501(c)(3) organization).

Volunteers should also be aware that the Tax Cuts and Jobs Act of 2017 brought significant changes to the Internal Revenue Code, which may impact how and to what extent they deduct their out-of-pocket expenses incurred in connection with volunteer service performed on behalf of EAA. In particular, the standard deduction nearly doubled to \$12,000 for individuals and \$24,000 for married couples filing jointly. As a result, fewer taxpayers are likely to itemize their deductions. If you continue to itemize your tax deductions, you can still take a deduction for a charitable contribution, including your out-of-pocket volunteer expenses. However, if you take the standard deduction instead of itemizing, you will no longer receive a specific Federal tax benefit for charitable giving. The impact of this change will vary depending on the specific tax situation of the volunteer, and volunteers should consult with their own tax professionals for further guidance and information.

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## Discussion

### A. Volunteer Expenses vs. Vacation Expenses

Under Internal Revenue Code Section 170(j), a volunteer's travel costs (such as the cost of transportation (including automobile mileage expense), meals and lodging) cannot be deducted if there is a "significant element of personal pleasure, recreation or vacation in such travel." Unfortunately, the meaning of this rule is vague, but it is clear that Section 170(j) does not prevent an EAA volunteer from deducting EAA-related travel expenses merely because the volunteer enjoys the work he or she performs at Oshkosh. Rather, the key to claiming the charitable contribution deduction for travel expenses is the *extent* of the work performed by a volunteer at Oshkosh, as compared with the amount of time spent on purely recreational activities.

We have developed guidelines, set forth below, which we believe you and your tax advisers can rely on in determining whether travel expenses incurred by you at or on behalf of EAA are deductible. Although we believe these guidelines reflect a reasonable interpretation of the law, it is not clear the Internal Revenue Service would agree with us and, for that reason, volunteers who wish to take a tax deduction for all or some portion of their expenses are encouraged to seek the advice of their own qualified tax professionals. Furthermore, you should understand that these guidelines are prepared on the assumption that a volunteer's travel includes *only* days in Oshkosh and days traveling to and from Oshkosh. If, therefore, a volunteer "tacks on" vacation days to the trip (that is, pure vacation days neither spent at Oshkosh nor traveling between Oshkosh and the volunteer's home), the guidelines set forth below may not apply, and any such volunteer is encouraged to consult with his or her tax adviser. Finally, we note that volunteers who do not meet these guidelines are not necessarily barred from deducting their expenses and should also consult with their personal tax advisers.

1. Transportation Costs. Assuming that all the other requirements set forth below (in Sections B, C, D, and E of this Memorandum) are also met, a volunteer traveling to and from Oshkosh in 2019 should be able to claim a deduction for all of his or her transportation costs if, during the trip, (a) he or she performed volunteer work in support of an EAA project on no less than two-thirds of the full or partial days he or she spent in Oshkosh, and (b) the total hours worked in support of an EAA project *averaged* at least five hours a day for each full or partial day spent in Oshkosh.

EXAMPLE A: A volunteer's trip to Oshkosh took eight days, including one travel day getting to Oshkosh, one travel day getting back home, and six days at EAA. The volunteer performed volunteer services on behalf of EAA on four of the six days he was present at EAA working on EAA's restoration of North American B-25H Mitchell *Berlin Express*, for a total of 30 hours. This volunteer should be able to deduct all of his transportation costs getting to and from Oshkosh, because (a) he performed work for EAA on no less than four days (that is, two-thirds of the six days he was at EAA), and (b) his 30 total hours of work works out to an average of five hours a day for each of the six days he spent at EAA.

EXAMPLE B: A volunteer's trip from home took five days, including one travel day getting to Oshkosh, one travel day getting back home, and three days in Oshkosh. The trip was in early Spring, and the volunteer worked on preparing the Berlin Express' second radial engine for two of the three days she was in Oshkosh, for a total of 16 hours. This volunteer should also be able to deduct all of

her transportation costs getting to and from Oshkosh, because (a) she performed work on behalf of EAA for no less than two days (that is, two-thirds of the three days she was in Oshkosh), and (b) her 16 total hours of work works out to an average of more than five hours a day for each of the three days she was in Oshkosh.

2. Hotel or Camping Costs. A volunteer who paid for lodging in 2019 (either while traveling to or from Oshkosh, or while in Oshkosh) and was not reimbursed, should be able to deduct all lodging costs if he or she put in a “full” workday (at least five hours) at or on behalf of EAA every day while in Oshkosh. If the volunteer worked on some days but not others, lodging costs should be deductible to the extent they preceded or followed a “full” workday. For example, a volunteer who worked for at least five hours on a Monday should be able to deduct lodging costs for Sunday and Monday. Obviously, no deduction is allowed for any lodging costs which were paid or reimbursed by EAA.

3. Food Costs. If a volunteer paid for food (either while traveling to or from Oshkosh, or while in Oshkosh) and was not reimbursed, all of those costs should be deductible if he or she worked a “full” workday (at least five hours) at or on behalf of EAA on every day he or she was in Oshkosh. If such a volunteer worked some days but not others, food costs should be deductible if incurred (a) during the middle of a workday or (b) immediately before or after a work period. Again, no deduction is allowed for any food costs which were paid or reimbursed by EAA.

## **B. Record-keeping**

Even if an expense meets the requirements for deductibility set forth above, it will be deductible only if the volunteer has adequate records. These would include receipts or other documents to verify that the expenses were actually incurred or, in the case of mileage, a diary noting distances traveled each day. In addition, the volunteer should have some sort of a work diary, showing the hours worked and work performed on a daily basis.

## **C. Dollar Limits**

The aggregate of all charitable contributions deducted during the year, including charitable contributions for expenses incurred when volunteering, generally cannot exceed a specified percentage (usually 60%) of the volunteer’s “contribution base” (usually his or her adjusted gross income for that year). Charitable contribution deductions disallowed because of this limitation may generally be carried forward and deducted in a future year.

## **D. Reduction by Benefits Received**

An otherwise allowable charitable contribution deduction must be reduced by the value of any benefits received by a volunteer from EAA in return for services. In making this calculation, though, it is permissible to ignore (a) benefits of minimal value, such as caps and patches, and (b) benefits such as lodging and meals furnished while the services are being performed. We believe that, applying these rules, EAA volunteers did not receive any benefits in 2019 that need to be taken into account for this purpose. Therefore, the full amount of expenses should be deductible (assuming, of course, that they meet the other rules discussed here).

## **E. Airplane and Automobile Expenses**

For volunteers who flew their own airplanes to and from Oshkosh in order to work at or for EAA, IRS rules generally allow a deduction only for actual fuel costs and other expenses *directly* related to the flight. According to the IRS, no deductions can be claimed for depreciation, insurance and general maintenance. For persons driving to and from Oshkosh, the deduction will equal either the actual direct costs incurred, or 14 cents per mile, at the taxpayer's election. Note that this deduction amount for volunteers is set by statute [Internal Revenue Code Section 170(i)] and does not change from year to year as the business travel mileage deduction changes.

### **Conclusion**

As set forth above, volunteers may be allowed to claim a charitable contribution deduction on their personal income tax forms for expenses incurred while volunteering. The rules for claiming such deductions are complex, however, and we cannot provide legal advice on individual situations. Volunteers are encouraged to seek advice from a qualified tax professional for guidance on this issue.