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For immediate release  
**BASE® sets the standard for new IRS ruling on S corp taxes**

Business owners who operate as an S corporation have an important new IRS ruling that could have an impact on shareholders' 2008 tax returns.

In 2008, the IRS issued a new ruling on shareholders in S corps that could also help them save on health and accident premiums by allowing such expenses to be tax deductible. Section 162(l) of the Internal Revenue Code allowed that if a person is considered to hold at least 2% of an S corp's share and their healthcare costs are paid or reimbursed by the S corp, those costs may be deducted from taxable income.

As an S corp, business owners have legally separated themselves from their business in order to protect their personal assets. Their business income is generally not taxed, because all earnings and losses are taxed through the shareholders, whether distribution happens or not. This business structure offers the protection of a corporation with the tax benefits of a partnership. In some situations this can save some business owners a lot on their taxes each year.

BASE® was ahead of the curve on the recent decision to allow an S corp's shareholders tax breaks for reimbursed health care expenses. BASE® has always interpreted the following sets of laws as allowing these kinds of tax savings. By being one of the first to recognize the potential tax savings of Publication 15(b), BASE® has saved small business shareholders thousands of dollars.

**Walking through the law**

- Section 1372(a) establishes that for tax purposes, an S corp is to be treated like a partnership and 2% shareholders as partners.
- Section 707(c) of the Code. Rev. Rul. 91-26, 1991-1 C.B. 184 adds that healthcare costs paid or reimbursed by the S corp to any partner is to be treated like partnership guaranteed payments, that is to say that the costs are tax deductible.
- Section 162(a) may allow for the S corp itself to also deduct healthcare costs paid or reimbursed to employees if certain requirements are met.
- 3121(a)(2)(B) states that premiums paid by the S corp to the employee may be included in wages for tax withholding purposes, but are not subject to Medicare or Social Security taxes.
- Section 61(a) ruled that the 2% shareholder must report the amount of reimbursed or paid health insurance premiums in their gross income.
- Tax Code Section 106 states that for the purposes of tax deduction, 2% shareholders are not employees. This means that health care premiums are not excludable from an employee's gross income.

- 162(l)(1)(A) is the new ruling that now allows shareholders to deduct health care costs so long as the deduction is not greater than taxable income and the S corp did not provide a subsidized healthcare plan.
- Rev. Rul. 91-26, 1991-1 C.B. 184 is what states that a 2% shareholder is eligible for deduction if the reimbursement or payment of medical care is an established plan set by the S corp.
- Publication 15(b) is the tax document that BASE® referenced to allow their clients to deduct healthcare costs if they were shareholders in an S corp prior to the IRS's latest ruling.

There is still time to establish a healthcare plan and reap the benefits of this most recent IRS ruling on healthcare for S corp shareholders. Contact BASE® to assist you in establishing an HRA today.

**About BASE®**

Established in 1999 and headquartered in Adel, Iowa, BASE® is one of the nation's leading employee benefit administrators. BASE® offers a variety of tax savings plans for small businesses, including the 105 Health Reimbursement Arrangement (HRA) and the 125 Flexible Spending Account (FSA). To find out more about HRAs, FSAs and other employee benefit plans visit [www.baseonline.com](http://www.baseonline.com) today or contact a benefit specialist at 888-386-9680.

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