

[Can I take a per diem deduction for turns, locals or day trips?](#)

By [Jason Watson \(Google+\)](#)

No. For a per diem deduction, an overnight or a substantial rest period must occur. This rest requirement is not satisfied by merely napping in the crew lounge. Your relief from duty must be long enough to get necessary sleep or rest.

The Tax Court has developed the Sleep or Rest rule which is basically-

If the nature of the taxpayer's employment is such that when away from home, during released time, it is reasonable for him to need and to obtain sleep or rest in order to meet the exigencies of his employment or the business demands of his employment, his expenditures (including incidental expenses, such as tips) for the purpose of obtaining sleep or rest are deductible traveling expenses.

Here is an additional snippet from a famous case called [Bissonnette \(Tax Court Opinion 127 No. 10\)](#). It contains duplicative language to the above rule, but it is hard to slice it up any other way-

If the nature of petitioner's employment was such that when away from home, during released time, it was reasonable for him to need and to obtain sleep or rest in order to meet the exigencies or business demands of his employment, his expenses for this purpose would be traveling expenses under section 162(a)(2). See *Williams v. Patterson*, supra at 340; Rev. Rul. 75-170, 1975-1 C.B. 60. However, the released time must be of a sufficient duration that it would ordinarily be related to a significant increase in expenses. See *United States v. Correll*, supra.

In the *Bissonnette* case, the taxpayer was a boat captain who worked a 16-hour shift and obtained a hotel during his break for rest. This caused the Tax Court to consider his rest to be substantial.

Grey Area Alert: Note the language "release from duty." The airlines vis a vis the DOT and FAA have a very specific definition of being released from duty. Standups, High Speeds and CDOs (and now the new Split Duty Overnight SDO) create a bit of a grey area. Technically, you are not released from duty in the eyes of the DOT or FAA. But you are not flying, so you are substantially resting. This will become moot in 2014 with FAR 117, but for 2013 it certainly is grey. Does this make sense?