

ANNUAL TAX GUIDE

FOR OKLAHOMA LEGISLATORS



2018 EDITION



*Provided by the Oklahoma Society
of Certified Public Accountants*



MEMO

January 1, 2018

To: Oklahoma Legislators

From: The Oklahoma Society of CPAs' Taxation Committee

Subject: "Tax Guide for Oklahoma Legislators"

We are pleased to present this copy of the 2018 edition of our "Tax Guide for Oklahoma Legislators" prepared especially for you. This guide is intended to assist in preparing 2017 tax returns.

This guide is intended to address selected questions about federal and Oklahoma income taxes as they relate to your unique position as an elected official. The guide does not cover personal itemized deductions or tax matters related to your other professional, business or investment activities. For advice on other tax or accounting questions, we suggest you contact your Certified Public Accountant.

As a member of the Legislature, you will be recommending and considering proposed legislation. During its developmental stage, you may find it helpful to seek technical counsel, particularly on legislation relating to tax or accounting matters. The Oklahoma Society of CPAs will be pleased to provide — through individual members as well as its various committees — assistance during the evaluation and developmental stages of such legislation. As the need arises, we urge you to call upon us at:

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To ensure compliance with requirements imposed by the Internal Revenue Service, please be informed that any U.S. federal tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code.



TABLE OF CONTENTS

INTRODUCTION	1
AUTOMOBILE AND TRAVEL EXPENSES	2
LIVING EXPENSES	5
ENTERTAINMENT EXPENSES	6
OFFICE EXPENSES	7
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES	8
ADVERTISING EXPENSES	9
TELEPHONE EXPENSES	9
OTHER EXPENSES	10
RECORDKEEPING	10
STATE OF OKLAHOMA INCOME TAX PROVISIONS	12
FORM 2106 - EMPLOYEE BUSINESS EXPENSES (EXHIBIT A)	13
FORM 8829 - EXPENSES FOR BUSINESS USE OF YOUR HOME (EXHIBIT B)	15
RECORDKEEPING REQUIREMENTS FOR TRAVEL, ENTERTAINMENT, AND GIFTS (EXHIBIT C)	16
ELECTION UNDER I.R.C. SECTION 162 (h) (EXHIBIT D)	17
AUTO LOG (EXHIBIT E)	18
EXAMPLE (EXHIBIT F)	19

ABOUT THE OKLAHOMA SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

The Oklahoma Society of Certified Public Accountants (OSCPA) is the only statewide professional organization for Oklahoma CPAs. Formed in 1918 with a charter membership of 31, we unite more than 6,000 CPAs in public practice, private industry, government and education.

Our legislative efforts function under the direction of OSCPAs Contract Lobbyist, Benny Vanatta, and OSCPAs Executive Director Blaine Peterson, CPA. Questions regarding our legislative efforts can be directed to Peterson at the OSCPAs, 1900 NW Expy, Ste. 910, Okla. City, OK 73118-1898, 405/841-3800, ext. 3812, 800/522-8261, or by e-mail at bpeterson@oscpa.com.

INTRODUCTION

As employees of the State of Oklahoma, legislators are entitled to deduct on their Federal income tax returns expenses that are ordinary and necessary in the performance of their duties.

The nature of an expenditure determines whether it may be treated as a deduction in arriving at adjusted gross income or as a deduction from adjusted gross income. Ordinary and necessary business expenses incurred by legislators are treated as unreimbursed employee expenses and are deductions from adjusted gross income. These expenses are reported on IRS Form 2106, Employee Business Expenses, a copy of which is attached as Exhibit A. The allowable expenses are transferred from Form 2106 to IRS Form 1040, Schedule A, Itemized Deductions.

Certain limitations exist related to these expenditures. Meals and entertainment reported on Form 2106 are limited to 50 percent of the amount incurred (discussed in more detail later). Further, all amounts transferred to Schedule A are classified as *miscellaneous itemized deductions*. This classification also includes tax preparation fees and investment expenses. Miscellaneous itemized deductions are allowable to the extent they exceed 2 percent of the taxpayer's adjusted gross income. Legislators taking the standard deduction will not be allowed to report unreimbursed business expenses since these amounts are classified as itemized deductions.


One recurring element of this tax guide is the emphasis placed on recordkeeping, which has great importance in this context. The burden of proving the propriety and amount of deductions is on the taxpayer. Therefore, it is imperative that a taxpayer keep sufficiently detailed records. Failure to adequately support a deduction can result in its disallowance. Substantiation requirements are discussed in detail under the heading of Recordkeeping on page 10.

This guide is not intended to cover all tax matters related to an individual's tax return. Items of a personal nature, such as medical expenses, interest, contributions, or other tax matters unrelated to your position as an elected official, are not covered. A question and answer format is used to provide specific answers to questions concerning income tax laws as they relate to your unique position as a member of the Legislature.

Ordinary and necessary business expenses incurred while traveling "away from home" are generally deductible. To determine his/her allowable travel expenses, a

legislator must determine the location of their "tax home." The Internal Revenue Code and Treasury Regulations provide rules that allow state legislators whose principal residence is more than 50 miles from the state capitol to elect (for living expense purposes) to be deemed to be away from home for each day

that the Legislature is in session or on any day when the Legislature is not in session but the legislator's presence is formally recorded at a legislative committee meeting. Failure to make this election will presumably subject the legislator to other more general rules governing travel expenses. The effect of the election is discussed in detail under the heading of Living Expenses.

This tax guide assumes that a legislator's tax home is outside the 50 mile radius discussed above. Thus, answers to questions concerning travel expenses while away from home will not apply to legislators who reside within 50 miles of the capitol. You may wish to consult your Certified Public Accountant if you have questions about the application of these rules. 

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AUTOMOBILE/TRAVEL EXPENSES

Q. How do I report my mileage or automobile expenses on my tax return?

A. You are considered an employee of the State. All mileage or automobile expenses are reported on Form 2106, Employee Business Expenses. Form 2106 (Exhibit A) is included in this tax guide to assist you in understanding the questions and answers and properly reporting your tax deductible information on your annual federal income tax return.

The state pays each legislator certain specified allowances for expenses. In order to ensure compliance with Internal Revenue Service regulations, you should submit a statement (Form 2106) with your tax return showing the total allowances received and expenses incurred. Any excess of allowances over expenses is included in income, while any excess of qualifying expenses over allowances is deducted from income.

Q. How much can I deduct for the auto mileage I incur traveling to and from Oklahoma City?

A. There are two methods of computing automobile expenses — the standard mileage rate of 54.5 cents per mile for the year 2017, or an itemization of your actual automobile expenses. To itemize, total the automobile expenses (depreciation, gas and oil, repairs and maintenance, insurance, etc.) and apply your business use percentage. The business use percentage is computed by dividing your total business miles by total miles driven during the year. (See additional questions on page 3.) For 2018 planning purposes, please note as of 1/1/2018 the mileage rate was increased to 54.5 cents per mile.

Q. What other mileage expenses can I deduct?

A. A member of the Legislature usually incurs a great deal of mileage expense while in his legislative district. All travel costs to meetings where you will speak or which are important to attend because of your position are tax deductible. A memorandum of such mileage must be kept. This mileage can become substantial, particularly for those individuals whose districts are geographically widespread. The legislator may be required to travel several miles from one town to another and attend civic functions, political functions, or other meetings related to his legislative duties. You

may deduct the cost of unreimbursed transportation between two places of business (state Legislature or another business or occupation) provided such trips are necessary to conducting business at both locations. In addition, mileage costs incurred in making an investigation to ascertain facts concerning possible legislation are deductible (Form 2106).

Q. What about mileage expenses incurred while going to meetings during a political campaign for my re-election? Although I am running for re-election, I still feel it is incumbent upon me to attend these meetings to explain to my constituents the activities of the Legislature.

A. The Internal Revenue Code specifically states that campaign expenses are not tax deductible. Because of this restriction, it is very important for the legislator to distinguish between those expenses that are directly related to campaigning for re-election and the expenses that can be directly attributable to serving the legislator's constituency. (See the Campaign Contributions and Expenditures section on page 8.)

Q. If I use another mode of transportation to get to Oklahoma City, such as bus or airplane, can I deduct these expenses in addition to my mileage expense?

A. You cannot claim both the mileage you would have incurred had you driven an automobile to Oklahoma City and the cost of the bus fare or airplane ticket. If you use a bus, airplane or other means of transportation to Oklahoma City, these expenses should be detailed on Form 2106.

Q. On occasion I ride with another legislator to Oklahoma City. Do I still claim a tax deduction for the mileage for that particular day, even though I did not drive my own car?

A. When you ride with someone else, and do not incur transportation expenses yourself, you cannot claim any mileage expense for that travel.

Q. While away from home, staying in Oklahoma City for the legislative session at a hotel, etc., I am required to drive or take a taxi to the capitol each day. Can I deduct this as a business expense?

A. Yes. Since Oklahoma City is not considered your tax home, business transportation between your hotel and the capitol, etc., is not considered commuting. Consequently, you may deduct such transportation expense.

Q. I have an office in my home district. Can I deduct mileage expense from my home to this office?

A. No. The mileage from your residence to place of business is not deductible; this is considered a nondeductible commuting expense. However, mileage between two places of employment is deductible. Thus, for example, when a legislator drives from his regular place of business (other than the Legislature) to his legislative office, the mileage driven would be deductible if business is conducted at both locations.

Q. The Internal Revenue Service allows me to deduct a standard mileage allowance or to itemize all of my actual automobile expenses and then to take a portion of those expenses based on the percentage that my business mileage bears to the total mileage during the year. Which method results in the greater deduction for me?

A. If you have the option of using either the standard mileage rate or actual expense method, you should figure your expenses both ways to find the method most beneficial to you. You can use the standard mileage rate for 2017 only if: You owned the vehicle and use the standard mileage rate for the first year you placed the vehicle in service or, you leased the vehicle and are using the standard mileage rate for the entire lease period.

Q. If I itemize my automobile expenses one year, can I use the standard mileage allowance the following year?

A. You may switch from actual expenses to the standard mileage rate only if straight line depreciation was used and additional first year depreciation was not used.

Q. Do the same rules apply if I lease my automobile?

A. If you lease your vehicle, you may use the standard mileage rate, but only if you use the rate for the entire lease period. In addition, the lessee of a luxury automobile must include in gross income an "inclusion amount" based on the fair market value of the automobile and the lessee's use of it for business/investment purposes if deducting actual expenses. You may want to consult your CPA in regard to these complex provisions.

Q. Are there expenses I can deduct for the use of my automobile in addition to the standard mileage allowance?

A. Yes. Parking fees and tolls are deductible. Automobile license tags are no longer deductible on Schedule A.

Q. If I choose not to use the standard mileage allowance method for computing automobile expenses, specifically what actual automobile expenses am I allowed to deduct?

A. Gasoline, oil, repairs, maintenance (tune-ups, etc.), tires, insurance, registration fees, car washes, depreciation and other expenses incident to maintaining and operating your business vehicle.

Q. What limitations are placed on depreciation deductions for my automobile?


A. Current tax law places limitations on certain automobiles placed in service after June 18, 1984. Due to extreme complexity Congress has created in the area of automobile depreciation, it is suggested that you contact your CPA to answer this question in detail. As a general answer, the table on the following page lists the limits placed on automobile depreciation.

There are certain exceptions to the depreciation limits that are effective August 5, 1997, for cars that run on clean fuel. You may want to consult your CPA if you believe your car may qualify for these exceptions.

Your total depreciation cannot exceed your cost in the automobile. The limitations are based on using your automobile 100 percent for business. If your business use is less than 100 percent, you must reduce the limitations pro rata. If your automobile is not used more than 50 percent for business purposes, you must use the straight-line method of depreciation over five years. Further, if during that five-year period your business use drops from greater than 50 percent to 50 percent or less, you must recompute all depreciation for the automobile under the five-year straight-line method. Any amount of depreciation taken in excess of this is to be picked up as income.

Q. Since I receive expense allowances from the State, might it not be best to just disregard the allowances entirely and assume that they are completely offset by expenses and therefore, not report anything?

A. In order to ensure compliance with Internal Revenue Service regulations, you should report these allowances on Form 2106 and deduct related expenses. If your allowances exceed your actual expenses, you have an excess reimbursement that will be included in taxable income. If your expenses exceed your allowances, you have a deduction in computing taxable income.

NOTE: See the Recordkeeping section on page 10 for automobile and travel substantiation requirements. 

AUTOMOBILE DEPRECIATION TABLE

For Cars Placed In Service		Depreciation Allowable in				
After	Before	Year 1		Year 2	Year 3	Year 4, etc.
12/31/06	1/01/08	3,060		4,900	2,850	1,775
12/31/07	1/01/10	10,960	*	4,800	2,850	1,775
		2,960				
12/31/09	1/01/11	11,060	*	4,900	2,950	1,775
		3,060				
12/31/10	1/01/12	11,060	*	4,900	2,950	1,775
		3,060				
12/31/11	1/01/13	11,160	*	5,100	3,050	1,875
		3,160				
12/31/12	1/01/14	11,160	*	5,100	3,050	1,875
		3,160				
12/31/13	1/01/15	11,160	*	5,100	3,050	1,875
		3,160				
12/31/14	1/01/16	11,160	*	5,100	3,050	1,875
		3,160				
12/31/15	1/01/17	11,160	*	5,100	3,050	1,875
		3,160				
12/31/16	1/01/18	11,160	*	5,100	3,050	1,875
		3,160				

* The higher first-year limit applies if the vehicle qualifies for bonus depreciation under the general provision of Code Sec. 168(k) and no election out is made. The higher limit does not apply if bonus depreciation is claimed under the authority of any other bonus depreciation provision, such as the provision for Gulf Opportunity Zone Property or Disaster Assistance Property.

For Trucks and Vans Placed In Service		Depreciation Allowable in				
After	Before	Year 1		Year 2	Year 3	Year 4, etc.
12/31/06	1/01/08	3,260		5,200	3,050	1,875
12/31/07	1/01/09	11,160		5,100	3,050	1,875
		3,160				
12/31/08	1/01/10	11,060	*	4,900	2,950	1,775
		3,060				
12/31/09	1/01/11	11,160	*	5,100	3,050	1,875
		3,160				
12/31/10	1/01/12	11,260	*	5,200	3,150	1,875
		3,260				
12/31/11	1/01/13	11,360	*	5,300	3,150	1,875
		3,360				
12/31/12	1/01/14	11,360	*	5,400	3,250	1,975
		3,360				
12/31/13	1/01/15	11,460	*	5,500	3,350	1,975
		3,460				
12/31/14	1/01/16	11,460	*	5,600	3,350	1,975
		3,460				
12/31/15	1/01/17	11,560	*	5,700	3,350	2,075
		3,560				
12/31/16	1/01/18	11,560	*	5,700	3,450	2,075
		3,560				

*The higher first-year limit applies if the vehicle qualifies for bonus depreciation under the general provision of Code Sec. 168(d) and no election out is made. The higher limit does not apply if bonus depreciation is claimed under the authority of any other bonus depreciation provision, such as the provision for Gulf Opportunity Zone Property or Disaster Assistance Property.

Note: The IRS code allows a business vehicle (which includes trucks and SUVs only) with a weight greater than 6,000 lbs. and less than 14,000 lbs a 179 deduction of \$25,000 unless the vehicle has a cargo area or seats for more than nine people.

LIVING EXPENSES

Q. It is my understanding that I may deduct living expenses while in Oklahoma City only if it is not considered my “tax home.” How do I determine whether Oklahoma City or my residence within my legislative district is my tax home?

A. The Economic Recovery Tax Act of 1981 added Section 162(h) to the Internal Revenue Code that permits you to elect to treat your residence in your home district as your tax home.

You may make this election if your place of residence within your legislative district is more than 50 miles from the Capitol building in Oklahoma City. The 50-mile limitation became effective January 1, 1981.

Generally, if being a state legislator is your most significant income-producing activity and you spend more time in Oklahoma City carrying out your legislative duties than you do in your home district, the IRS and most courts would consider Oklahoma City your tax home.

Hence, the cost of meals and lodging while in Oklahoma City and travel to and from Oklahoma City to perform legislative duties there would not be considered deductible business expenses. You should note that if your tax home is Oklahoma City, you may be allowed a business expense deduction for overnight travel expenses incurred while carrying out your legislative duties within your home district or while carrying on another trade or business there.

Q. How do I make this election and to which taxable years does it apply?

A. The IRS has published guidelines for the time and manner of making the election, provided the statute of limitations has not yet expired. The election is made by attaching a detailed statement to your tax return (See Exhibit D on page 17). Consult your CPA for additional information.

Q. If I elect to make my residence in my legislative district my tax home, what living expenses may I deduct while staying overnight in Oklahoma City?

A. For January through September 30, 2017, the CONUS per diem rate for Oklahoma City is \$156.

Effective October 1, 2017, the CONUS per diem rate for Oklahoma City decreased from \$156 to \$154. The provision states, however, that an employer may elect to continue using \$156 per day for the last three months of 2017 for each day the Legislature was in session, including the days on which the Legislature recessed for four or fewer consecutive days..

You may also report the flat \$156 (or \$154) allowance for each day on which the Legislature was not in session but when your physical presence was formally recorded at a legislative committee meeting.

Since your reimbursements from the State of Oklahoma for living expenses will not be included in your gross income, the deduction will be limited to the excess of the allowance over the amounts reimbursed.

Q. What expenses are included in the flat \$156 (or \$154) per day allowance?

A. The allowance is for living expenses including meals, lodging and certain incidental expenses such as tips. The term “incidental expenses” is given the meaning as defined in the Federal Travel Regulations. Please consult your CPA for further clarification in this area.

Q. If I am eligible to make the election but choose not to elect this special treatment, what can I deduct for living expenses while attending sessions in Oklahoma City?

A. Given this circumstance, if your tax home is your residence within your legislative district, you may deduct actual amounts spent for lodging, meals, laundry, cleaning and pressing of clothes, tips, telephone calls and all transportation costs including commuting cost within Oklahoma City and transportation to and from Oklahoma City. The deduction is limited to amounts that are not lavish or extravagant under the circumstances.

If you share a hotel or motel room with others, your deduction is limited to the portion of the total cost you pay. If you have a fixed monthly rate that you pay a motel or hotel, it may be deducted as long as it is for the purpose of providing a place to stay while you are away from home on legislative business. If you live in an apartment or share one with another person, you may take a business deduction for the actual amount you pay

(EXPENSES Continued on 6)

for your share of the rent, utilities, telephone bills and furniture rental for the apartment.

In each case, whether a hotel, motel or apartment, you or someone within the group with whom you are staying should keep the receipts for every dollar spent to support your lodging expense deductions. (See the Recordkeeping section on page 10.) It is desirable for each member of the group to have copies of the paid vouchers and an annual summary of total costs and how they were divided among the roommates.

One of the provisions of the 1986 Tax Reform act resulted in regulations coordinating the new treatment of employee business expenses with the travel expenses away from home of state legislators. The excess of the travel expenses incurred (which can be the \$156 [or \$154] per diem allowance) over the amount reimbursed to the legislator should be allocated between meals

and other travel expenses in accordance with the ratio of meals and other travel expenses under the Federal per diem reimbursement rules. Expenses equal to the reimbursement are fully deductible. Only 50 percent of the amount allocated to meals and incidental expenses is deductible and this reduced amount is subject to the two percent floor under miscellaneous itemized deductions.

Q. If I live within 50 miles of the capitol or must make the capitol my tax home for some other reason, can I deduct any living expenses?

A. Generally, you may not deduct living or commuting expenses if you live within 50 miles of the Capitol. You may deduct other business expenses as described in this booklet. ➤

ENTERTAINMENT EXPENSES

Q. I occasionally entertain other elected officials, such as city council members, mayors and members of Congress, primarily for the purpose of maintaining communication with them and exploring common problems. Can I deduct this expense?

A. Yes. However, the Tax Reform Act of 1986 has imposed a limitation on entertainment expenses incurred in the conduct of business. You are limited to a 50 percent deduction for the total cost of the meal plus gratuities, etc. Additionally, the allowable 50 percent is then aggregated with all other miscellaneous deductions such as tax preparation fees, contract collection fees, safe deposit box fees and other employee business expenses.

Miscellaneous deductions are limited to an amount that exceeds two percent of adjusted gross income. The criteria for deducting entertainment costs are that such expenditures have a business purpose and that you and the persons entertained have a business relationship. If a business discussion does not take place during the entertainment, it must at least directly precede or follow the entertainment. If the entertainment involves anything other than a meal in surroundings conducive to a business discussion, include in your diary the time,

place, duration and a description of the nature of the business discussion.

Q. Can I deduct the expense of meals I have purchased for constituents and other persons who have come to Oklahoma City where legislative business is involved?

A. Only 50 percent of the amount allocated to meals and incidental expenses is deductible, and this reduced amount is subject to the two percent floor under miscellaneous itemized deductions.

Q. While in Oklahoma City on certain special occasions, such as Statehood Day, I will have a gathering of fellow legislators and other individuals connected with the Legislature. Can I deduct the expense of this gathering as a business expense?

A. If the gathering can be shown to have a business purpose, then it would qualify as a business deduction (subject to the 50 percent rule). You must maintain adequate records with documentary support and indicate the business purpose and persons in attendance.

Q. On traditional holidays, such as Christmas, or at the end of the session, if fellow legislators and I take

assistants who have worked long hours during the session out to dinner, or if we buy them small gifts, would this be a deductible expense?


A. Meal and entertainment expenses, which are ordinary and necessary to the conduct of your business, are deductible (subject to the 50 percent rule). Generally, the expenses in question would qualify under these criteria. Business gifts given directly or indirectly are limited to \$25 per donee per year and are not subject to the 50 percent rule.

Q. I use my country club membership to entertain. Is this deductible?

A. No deduction is allowed for the cost of membership

in any club organized for business, pleasure, recreation or other social purpose. This includes country clubs, golf and athletic clubs, airline clubs, hotel clubs and business luncheon clubs operated to provide meals conducive to business discussion. Dues for membership in professional and trade associations and civic or public service organizations are deductible.

The meal expenses incurred for a specific business purpose are deductible under the entertainment rules (subject to the 50 percent rule).

NOTE: See the Recordkeeping section on page 10 for a discussion of substantiation requirements. 

OFFICE EXPENSES

Q. Under what circumstances can I claim expenses of my home as a business expense?

A. Generally, no deduction will be allowed with respect to expenses of a legislator's personal residence unless a portion of the residence is used exclusively and regularly as the taxpayer's principal place of business.

The current definition of principal place of business has been in effect since 1999. These rules allow your home office to qualify as your principal place of business if:

1. You use it exclusively and regularly for the administrative or management activities of your trade or business, and
2. You have no other fixed location where you conduct substantial administrative or management activities of your trade or business.

Alternatively, if you do business at more than one location, and your home office does not qualify as your principal place of business based on the new rules, you determine your principal place of business, as in prior years, based on the following factors:


1. The relative importance of the activities performed at each location. If the nature of your business requires meeting with customers or clients, the place where contact occurs will be given great weight.
2. If the relative importance factor does not determine your principal place of business, you can also consider the time spent at each

location. In the event you qualify for a home office deduction in a self-employment activity, the deduction is claimed on Schedule C (Form 1040), and you must attach Form 8829 to your return (Exhibit B).

In addition to the requirements discussed previously, an employee's business use must be for the convenience of the employer, not merely because it is appropriate and helpful. In your position as a legislator, you are an employee of the state of Oklahoma. A deduction for home office expenses, solely in connection with your conduct of legislative duties, will be subject to satisfaction of the "convenience of the employer" requirement.

Employees who qualify for a home office deduction will claim the deduction as a miscellaneous itemized deduction on Schedule A (Form 1040).

Beginning in 2013, legislators qualifying for the deduction may use an optional safe harbor method for determining office in home expenses.

All facts and circumstances should be considered when ascertaining the deductibility of the expenses. You may want to consult your CPA in regard to this complex provision. 

CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

Q. Are campaign receipts and expenditures subject to Internal Revenue Service review?

A. Yes. The Internal Revenue Service has ruled that campaign contributions and political gifts used solely for the expenses of an election campaign or similar purpose are not taxable income to the candidates. Any contributions that are used for personal purposes must be included in the candidate's taxable gross income.

Q. Is it permissible to commingle political funds with personal funds?

A. If funds are commingled so as to make tracing impractical, the entire fund will be presumed devoted to personal use and deemed taxable income to the candidate.

Q. How do you account for proceeds derived from fund-raising dinners or testimonial dinners?

A. Accounting and reporting for dinner proceeds are the same as for campaign contributions.

Q. Are contributions of property, such as stocks or bonds, recorded the same as cash?

A. The fair market value on the date of the contribution should be treated as the amount of the contribution.

Q. Are campaign expenses deductible for tax purposes?

A. Campaign expenses paid from a candidate's private resources are considered nondeductible personal expenses regardless of the result of the election. Such expenses would include the cost of attending political conventions, contributions to the party that sponsored the candidacy, expenses of campaign travel, campaign advertising, expenses of successfully defending a contested election, filing fees or the cost of legal fees paid in litigation over redistricting.

Q. What types of expenditures may be paid from campaign contributions?

A. Expenditures properly payable from campaign contributions include amounts:

1. Used for generally recognized campaign expenses regardless of when such expenses were incurred;

2. Contributed to the national, state or local committee of the candidate's party; or
3. Used to reimburse the political candidate for out-of-pocket campaign expenses paid by him during a current campaign, or if he is not currently campaigning, during his last previous campaign.

Q. What is the tax status of unexpended balances of political funds refunded to contributors?

A. For tax purposes, unexpended balances of political funds which are repaid to known contributors are not considered to be either expended or diverted and, therefore, are not taxable income to the candidate.

Q. What reporting is required of a political committee, organization, association or fund formed for the purpose of managing campaign contributions and expenses of a candidate?

A. Such an entity is considered an association taxable as a corporation and Form 1120-POL must be filed annually. The return is due on or before the 15th day of the fourth month after the end of the taxable year.

Q. What items would be reported and subject to tax on the 1120-POL?


A. All receipts and expenditures must be reported on the 1120-POL. As discussed in answers to previous questions, campaign receipts are not subject to tax. However, dividends, interest, rents, royalties and capital gains are subject to tax.

Q. What accounting records are required for political funds?

A. Detailed records should be kept by the political candidate or other custodian to enable the candidate to account accurately for the receipt and disbursement of political funds. Otherwise, receipts may be taxed on the individual's return and campaign expenses would be nondeductible. If political funds are commingled with the personal funds of the political candidate so as to render tracing or identification impracticable, the political funds will be presumed to have been diverted to personal use at the time so commingled.

Q. What is the tax rule regarding presumption against unrestricted gifts?

A. The Internal Revenue Service will presume, in the absence of evidence to the contrary, that contributions

to a political candidate are political funds which are not intended for the unrestricted personal use of the political candidate. Each candidate must be able to substantiate this claim. 

ADVERTISING


Q. Because I am a member of the Legislature, I am often called upon to buy ads in trade journals, magazines, etc., published by various organizations in my district. Can I deduct the cost of these ads?

A. Yes. It is important that public officials support worthwhile business and community activities in their district, and it is necessary that they keep their name before the public. However, it is advisable that any ads taken during a re-election campaign be paid for by campaign contributions, since they probably would not be deductible.

Q. Because I am a member of the Legislature, I am asked to purchase a ticket for and attend many dinners within my district. Can I deduct the cost of these dinners?

A. Yes (subject to the 50 percent rule previously discussed), plus incidental costs, such as transportation and parking.


Q. I buy calendars, pens and similar items bearing my address and phone number which I pass out to my constituents as a means of advertising and to encourage them to contact me when I can be of service. Can I deduct the cost of such items?

A. Yes. This activity has an obvious business purpose, but, as indicated above, during a re-election campaign these expenses should probably be paid for by campaign contributions. 

TELEPHONE

Q. Can I deduct the cost of my personal residence telephone in my district? I use it for calling and receiving calls from constituents and for other State business.

A. The basic cost of the telephone is an expense that you would incur whether or not you were a member of the Legislature, and is therefore a personal nondeductible expense. Calls charged in excess of those covered by the basic rate are a deductible

expense if they are business calls. If you have an additional telephone installed exclusively for business use, the entire cost of this telephone would be deductible. Long distance telephone calls that relate to legislative business are a deductible expense. An answering service or a tape recording device for telephone messages is also deductible if related directly to the business. Cell phones may also be deductible. Consult with your CPA regarding this. 

OTHER EXPENSES

Q. What other expenses can I deduct on my tax return?

A. Other deductible expenses you are likely to incur as a member of the Legislature are as follows:

1. Stationery, postage and office supplies relating to your position as a member of the Legislature.
2. Dues to organizations you have joined because they are helpful to you as a State legislator. Examples would be civic and political organizations of which you were a member before being elected to public office. These dues should be deductible if business-related.

The portion of dues paid to any organization for lobbying may not be deductible dependent upon that organization's treatment of those costs. The organizations are required to notify you if this provision is applicable.

No deduction is allowed for the cost of membership in any club organized for business, pleasure, recreation or other social purpose. This includes country clubs, golf and athletic clubs, airline clubs, hotel clubs and business luncheon clubs

operated to provide meals conducive to business discussions.

3. Publications, including books, newspapers and magazines which you purchase to assist you in your work as a legislator. Expenses of this nature incurred for personal reasons are not deductible.
4. The cost of Christmas cards for persons bearing a business relationship to you.
5. Cost of newsletters sent to constituents.
6. Fees paid to CPAs and others for services relating to business and income taxes.
7. Business use of cellular phones, pagers, computers and peripheral equipment.

Q. Are these expenses subject to additional limitation?

A. Yes. These expenses will appear as miscellaneous itemized expenses on your tax return, and, as such, a deduction for them will be limited to the amount that is in excess of two percent of your adjusted gross income.



RECORDKEEPING

Q. How must travel, entertainment, business gifts, use of automobiles and certain other business expenses as prescribed in Regulations, be substantiated?

A. Substantiation must be by adequate records or by the taxpayer's own statement, written or oral, supported by sufficient corroborating evidence.

Q. Which elements of an expenditure must be substantiated?

A. Every element of every expenditure for which a deduction is claimed, including:

- Amount of each separate expenditure;
- Time of travel, entertainment or use of facility;
- Place of travel or entertainment;
- Business purpose of each expenditure; and
- Names of persons entertained or recipients of gifts.

(See chart attached as Exhibit C.)

Q. Must each of the above elements be substantiated?

A. Yes; if any one is not, the entire expenditure may be disallowed.

Q. Are estimates of amounts acceptable?

A. No. The amounts must be exact.

Q. How should adequate records of travel, entertainment, business gifts and certain other business expenses, as prescribed in Regulations, be maintained?

A. The elements discussed above should be recorded in means of adequate records including an account book, diary, statement of expense or similar record and supported, when necessary, by adequate documentary evidence. Records must be maintained or prepared so that each recording of an element of an expenditure is made at or near the time of that expenditure or use.

Q. What constitutes adequate documentation?

A. Adequate documentary evidence includes receipts, bills marked as paid or similar evidence that establishes essential character of the expenditure or use. It does not need to be in the form of an original document. Copies can be adequate. Merely maintaining a record of expenditures is insufficient.

Q. Is documentary evidence required for every single expenditure?

A. No. Documentation is required to support all expenditures for lodging while traveling away from home regardless of the amount and for any other separate expenditure of \$75 or more, except for transportation charges, but, in that case, only if documentary evidence is not readily available.

Q. What must be included in the taxpayer's own statement?

A. The taxpayer's own statement must contain specific detailed information about the element being substantiated.

Q. Does corroborative evidence have to be written?

A. No. Corroborative evidence may be written or oral. Written evidence has a greater probative value than oral evidence. If oral, it should be from a disinterested, unrelated party.

Q. Would a canceled check be adequate evidence?

A. No. A canceled check will not by itself support a deduction without other evidence (e.g. payee's bill) demonstrating the business purpose.

Q. In lieu of documenting actual meal and incidental expenses, may legislators deduct a prescribed amount?

A. Yes, an optional method is available to compute the deductible cost of business meals and incidental expenses paid or incurred while traveling away from home. An amount computed as the federal Meal and Incidental (M&IE) rate may be used rather than actual. A deduction for \$59 per day for the 2017 tax year is allowed for the Oklahoma City area, subject to the 50 percent limitation rule.

There is also an optional incidental expenses only with the per diem amount of \$5 per day. If the taxpayer uses only this per diem amount, it is not subject to the 50 percent limitation rule.

Using the standard per diem amounts only releases the taxpayer from the duty of substantiating the actual amount. Time, place and business purpose must still be substantiated. The standard meal allowance described above is not available to those who use the per diem allowance listed under Living Expenses.

Q. How long should a legislator retain supporting records?

A. Proof to support a deduction must be retained as long as the U.S. income tax return is open for audit. Generally, it will be necessary to retain records for three years from the date the tax return is filed.


Q. What substantiation is required for supporting business use of an automobile and/or cellular phone?

A. A diary or log of the business use of the automobile indicating the time, place, mileage and business purpose would provide adequate support. Additionally, the diary should reflect the business calls made and business purpose for calls on the cellular phone. See Exhibit E for substantiation requirements for automobile usage. *Note: The 2010 Small Business Jobs Act removes cell phones from the category of listed property for tax years beginning after December 31, 2009. If an employer-provided cell phone is used primarily for business, employees will not have to report taxable income for personal use per newsletter released by the American Institute of CPAs.*

Q. How can the business purpose and relationship of an expenditure be substantiated?

A. The business purpose can be substantiated by noting the name, title and occupation of contacts, the type of activity and a description of the business benefit derived or expected. The business relationship of the individuals contacted must also be noted. If the group is large, the legislator is not required to record the names of each individual present if a class designation would indicate the business purpose (for example, met with officers of the Oklahoma Society of CPAs).

Q. Do special rules apply to the deduction of club dues and expenses related to other entertainment facilities?

A. There are special rules. No deduction is permitted for most club dues paid or incurred after Dec. 31, 1993. Disallowance applies to all types of clubs, including business, social, athletic, luncheon, sporting, airline and hotel, country and golf clubs. Specific business expenses (e.g., meals) incurred at a club are deductible only to the extent they otherwise satisfy the standards for deductibility. No deduction is allowed for expenses of maintaining an entertainment facility (i.e. yacht, hunting lodge, tennis court, vacation resort, etc.) Out of pocket expenses for items such as food and beverages during entertainment at such facilities are subject to the general entertainment rules. 

STATE OF OKLAHOMA INCOME TAX PROVISIONS


Q. Are all of the business-related expenses discussed above deductible on my Oklahoma state income tax return?

A. Since Oklahoma Income Tax Law conforms to Federal in the area of employee business expenses, the same expenses are deductible on your Oklahoma state income tax return.

Q. Are there any other adjustments to income or deductions that are a consideration on the Oklahoma return only?

A. Yes. After the federal adjusted gross income is entered on the Oklahoma form, there are numerous adjustments that may have to be made to arrive at Oklahoma taxable income. For details on these adjustments, consult your CPA.

Q. Are there any deductions or credits allowed on the Oklahoma return which are not allowed on the federal return?

A. Yes. Consult your CPA for details of credits allowed by the state. Contributions to Oklahoma 529 College Savings Plan accounts may be deducted regardless of the taxpayer's adjusted gross income. The adjustment for Political Contributions was repealed and is no longer available. 

Form **2106**
Department of the Treasury
Internal Revenue Service (99)

Employee Business Expenses

▶ Attach to Form 1040 or Form 1040NR.

▶ Go to www.irs.gov/Form2106 for instructions and the latest information.

OMB No. 1545-0074

2017
Attachment
Sequence No. **129**

Your name	Occupation in which you incurred expenses	Social security number
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Part I Employee Business Expenses and Reimbursements

Step 1 Enter Your Expenses

	Column A Other Than Meals and Entertainment	Column B Meals and Entertainment
1 Vehicle expense from line 22 or line 29. (Rural mail carriers: See instructions.)	1	
2 Parking fees, tolls, and transportation, including train, bus, etc., that didn't involve overnight travel or commuting to and from work	2	
3 Travel expense while away from home overnight, including lodging, airplane, car rental, etc. Don't include meals and entertainment.	3	
4 Business expenses not included on lines 1 through 3. Don't include meals and entertainment	4	
5 Meals and entertainment expenses (see instructions)	5	
6 Total expenses. In Column A, add lines 1 through 4 and enter the result. In Column B, enter the amount from line 5	6	

Note: If you weren't reimbursed for any expenses in Step 1, skip line 7 and enter the amount from line 6 on line 8.

Step 2 Enter Reimbursements Received From Your Employer for Expenses Listed in Step 1

7 Enter reimbursements received from your employer that weren't reported to you in box 1 of Form W-2. Include any reimbursements reported under code "L" in box 12 of your Form W-2 (see instructions).	7	
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Step 3 Figure Expenses To Deduct on Schedule A (Form 1040 or Form 1040NR)

8 Subtract line 7 from line 6. If zero or less, enter -0-. However, if line 7 is greater than line 6 in Column A, report the excess as income on Form 1040, line 7 (or on Form 1040NR, line 8)	8	
Note: If both columns of line 8 are zero, you can't deduct employee business expenses. Stop here and attach Form 2106 to your return.		
9 In Column A, enter the amount from line 8. In Column B, multiply line 8 by 50% (0.50). (Employees subject to Department of Transportation (DOT) hours of service limits: Multiply meal expenses incurred while away from home on business by 80% (0.80) instead of 50%. For details, see instructions.)	9	
10 Add the amounts on line 9 of both columns and enter the total here. Also, enter the total on Schedule A (Form 1040), line 21 (or on Schedule A (Form 1040NR), line 7). (Armed Forces reservists, qualified performing artists, fee-basis state or local government officials, and individuals with disabilities: See the instructions for special rules on where to enter the total.) . ▶	10	

For Paperwork Reduction Act Notice, see your tax return instructions.

Cat. No. 11700N

Form **2106** (2017)

Part II Vehicle Expenses**Section A—General Information** (You must complete this section if you are claiming vehicle expenses.)

		(a) Vehicle 1	(b) Vehicle 2
11	Enter the date the vehicle was placed in service	11 / /	/ /
12	Total miles the vehicle was driven during 2017	12 miles	miles
13	Business miles included on line 12	13 miles	miles
14	Percent of business use. Divide line 13 by line 12	14 %	%
15	Average daily roundtrip commuting distance	15 miles	miles
16	Commuting miles included on line 12	16 miles	miles
17	Other miles. Add lines 13 and 16 and subtract the total from line 12	17 miles	miles
18	Was your vehicle available for personal use during off-duty hours?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
19	Do you (or your spouse) have another vehicle available for personal use?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
20	Do you have evidence to support your deduction?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
21	If "Yes," is the evidence written?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Section B—Standard Mileage Rate (See the instructions for Part II to find out whether to complete this section or Section C.)

22	Multiply line 13 by 53.5¢ (0.535). Enter the result here and on line 1	22	
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Section C—Actual Expenses

		(a) Vehicle 1	(b) Vehicle 2
23	Gasoline, oil, repairs, vehicle insurance, etc.	23	
24a	Vehicle rentals	24a	
b	Inclusion amount (see instructions)	24b	
c	Subtract line 24b from line 24a	24c	
25	Value of employer-provided vehicle (applies only if 100% of annual lease value was included on Form W-2—see instructions)	25	
26	Add lines 23, 24c, and 25.	26	
27	Multiply line 26 by the percentage on line 14	27	
28	Depreciation (see instructions)	28	
29	Add lines 27 and 28. Enter total here and on line 1	29	

Section D—Depreciation of Vehicles (Use this section only if you owned the vehicle and are completing Section C for the vehicle.)

		(a) Vehicle 1	(b) Vehicle 2
30	Enter cost or other basis (see instructions)	30	
31	Enter section 179 deduction and special allowance (see instructions)	31	
32	Multiply line 30 by line 14 (see instructions if you claimed the section 179 deduction or special allowance).	32	
33	Enter depreciation method and percentage (see instructions)	33	
34	Multiply line 32 by the percentage on line 33 (see instructions)	34	
35	Add lines 31 and 34	35	
36	Enter the applicable limit explained in the line 36 instructions	36	
37	Multiply line 36 by the percentage on line 14	37	
38	Enter the smaller of line 35 or line 37. If you skipped lines 36 and 37, enter the amount from line 35. Also enter this amount on line 28 above	38	

Form **8829**
 Department of the Treasury
 Internal Revenue Service (99)

Expenses for Business Use of Your Home

► **File only with Schedule C (Form 1040). Use a separate Form 8829 for each home you used for business during the year.**

► **Go to www.irs.gov/Form8829 for instructions and the latest information.**

OMB No. 1545-0074

2017
 Attachment
 Sequence No. **176**

Name(s) of proprietor(s)

Your social security number

Part I Part of Your Home Used for Business

1	Area used regularly and exclusively for business, regularly for daycare, or for storage of inventory or product samples (see instructions)	1	
2	Total area of home	2	
3	Divide line 1 by line 2. Enter the result as a percentage	3	%
For daycare facilities not used exclusively for business, go to line 4. All others, go to line 7.			
4	Multiply days used for daycare during year by hours used per day	4	hr.
5	Total hours available for use during the year (365 days x 24 hours) (see instructions)	5	8,760 hr.
6	Divide line 4 by line 5. Enter the result as a decimal amount	6	.
7	Business percentage. For daycare facilities not used exclusively for business, multiply line 6 by line 3 (enter the result as a percentage). All others, enter the amount from line 3	7	%

Part II Figure Your Allowable Deduction

8	Enter the amount from Schedule C, line 29, plus any gain derived from the business use of your home, minus any loss from the trade or business not derived from the business use of your home (see instructions). See instructions for columns (a) and (b) before completing lines 9-21.	8	
9	Casualty losses (see instructions)	9	
10	Deductible mortgage interest (see instructions)	10	
11	Real estate taxes (see instructions)	11	
12	Add lines 9, 10, and 11	12	
13	Multiply line 12, column (b), by line 7.	13	
14	Add line 12, column (a), and line 13	14	
15	Subtract line 14 from line 8. If zero or less, enter -0-	15	
16	Excess mortgage interest (see instructions)	16	
17	Insurance	17	
18	Rent	18	
19	Repairs and maintenance	19	
20	Utilities	20	
21	Other expenses (see instructions)	21	
22	Add lines 16 through 21	22	
23	Multiply line 22, column (b), by line 7.	23	
24	Carryover of prior year operating expenses (see instructions)	24	
25	Add line 22, column (a), line 23, and line 24	25	
26	Allowable operating expenses. Enter the smaller of line 15 or line 25	26	
27	Limit on excess casualty losses and depreciation. Subtract line 26 from line 15	27	
28	Excess casualty losses (see instructions)	28	
29	Depreciation of your home from line 41 below	29	
30	Carryover of prior year excess casualty losses and depreciation (see instructions)	30	
31	Add lines 28 through 30	31	
32	Allowable excess casualty losses and depreciation. Enter the smaller of line 27 or line 31	32	
33	Add lines 14, 26, and 32.	33	
34	Casualty loss portion, if any, from lines 14 and 32. Carry amount to Form 4684 (see instructions)	34	
35	Allowable expenses for business use of your home. Subtract line 34 from line 33. Enter here and on Schedule C, line 30. If your home was used for more than one business, see instructions	35	

Part III Depreciation of Your Home

36	Enter the smaller of your home's adjusted basis or its fair market value (see instructions)	36	
37	Value of land included on line 36	37	
38	Basis of building. Subtract line 37 from line 36	38	
39	Business basis of building. Multiply line 38 by line 7.	39	
40	Depreciation percentage (see instructions)	40	%
41	Depreciation allowable (see instructions). Multiply line 39 by line 40. Enter here and on line 29 above	41	

Part IV Carryover of Unallowed Expenses to 2018

42	Operating expenses. Subtract line 26 from line 25. If less than zero, enter -0-	42	
43	Excess casualty losses and depreciation. Subtract line 32 from line 31. If less than zero, enter -0-	43	

For Paperwork Reduction Act Notice, see your tax return instructions.

Cat. No. 13232M

Form **8829** (2017)

RECORDKEEPING REQUIREMENTS FOR TRAVEL, ENTERTAINMENT AND GIFTS

FACTORS TO BE PROVED IN SUBSTANTIATING ELEMENTS IN COLUMN 1 -

ELEMENTS TO BE SUBSTANTIATED	FOR EXPENDITURES FOR TRAVEL AWAY FROM HOME	FOR EXPENDITURES FOR ENTERTAINMENT	FOR EXPENDITURES FOR GIFTS
(1)	(2)	(3)	(4)
Amount	Amount of each separate expenditure such as for transportation and lodging. Permissible to aggregate meals and other incidental expenses in reasonable categories such as meals, oil and gas, taxi fares, etc.	Amount of each separate expenditure, incidental items like taxi fares and telephone calls may be aggregated on a separate basis.	Cost of gift to taxpayer. Subject to \$25 maximum deduction per person per year.
Time	Dates of departure and return for each trip, and number of days away from home spent on business.	Date the entertainment or use of the facility for entertainment took place and duration of the business discussion.	Date of gift
Place	Destination by name of city or other appropriate designation.	Name and address or similar designation of place of entertainment or facility used in connection with entertainment, type of entertainment, if not otherwise apparent, and place of business discussion.	Not applicable
Description	Not applicable	Not applicable	Description of gift
Business purpose	Business reason for travel or nature of business benefit derived or expected to be derived as a result of the travel.	Business reason or nature of business benefit derived or expected to be derived as a result. Nature of any business activity or discussion that took place.	Business reason for making the gift or nature of business benefit derived or expected to be derived from gift.
Business relationship	Not applicable	Occupation or other information relative to the person or persons entertained, such as names, titles or other designations sufficient to establish the business relationship to taxpayer. Identification of persons entertained who participated in business discussion.	Occupation or other information such as names, titles or other designation concerning the recipient sufficient to establish the business relationship to taxpayer.

ELECTION UNDER I.R.C. SECTION 162 (H)

The taxpayer hereby elects under the above Section to designate the place of residence of such taxpayer within the district represented as the taxpayer's tax home.

LEGISLATOR'S NAME:

SOCIAL SECURITY NUMBER:

ADDRESS WITHIN DISTRICT:

Distance between taxpayer's residence within the legislative district represented and the Capital building of Oklahoma.

AMOUNT IN MILES:

Total number of legislative days the taxpayer was a legislator during the taxable year 2017.

January 1-September 30, 2017

October 1 - December 31, 2017

SESSION DAYS:

COMMITTEE DAYS:

TOTAL LEGISLATIVE DAYS:

Per diem amounts for Oklahoma City during 2017:

FEDERAL: January 1, 2017 through September 30, 2017
October 1, 2017 through December 31, 2017

\$156

\$154

OKLAHOMA:

\$156 (or \$154) or \$25

(The rate when the Legislature is in session is \$156 [or \$154] per day.
It is \$25 per day for all other days.)

Deduction for taxable year 2017 (before reimbursement):

	(A)	(B)	(A X B)
	RATE	TOTAL LEGISLATIVE DAYS	DEDUCTION
January through September 30, 2017	\$156	_____	_____
October through December 31, 2017	\$154	_____	_____

AUTO LOG

DATE	DESTINATION &PURPOSE OF TRIP — PERSONS MET/WORK	DONE BUSINESS MILEAGE	COMMUTATION MILEAGE <small>(Required by IRS)</small>	MEDICAL OR CHARITY MILEAGE	DEDUCTIBLE TOLLS & PARKING	OTHER CAR COSTS — GAS, OIL, INSURANCE, ETC.

EXAMPLE - JOHN Q. TAXPAYER, OKLAHOMA LEGISLATOR TAX YEAR - 2017

John Q. Taxpayer makes the election under I.R.C. Section 162 (h) which permits the federal per diem of \$156 per day to be deducted as travel expenses incurred while he is away from home overnight on legislative business. For purposes of Section 162 (h) John is considered to be traveling away from home overnight for each day the Legislature is in session and non-session days when his attendance was recorded at a committee meeting. Session days include days in which the Legislature recessed for four or fewer consecutive days.

Per diem allocations are as follows:

Through December 31, 2017

Lodging per session day	\$ 97	62.00 %
Meals and incidentals per session day	<u>59</u>	<u>38.00 %</u>
Total per session day	\$156	100.00 %

During the 2017 legislative session, taxpayer was away from home on legislative business a total of 70 days. Taxpayer was away from home overnight for interim committee legislative business for a total of 15 days.

Taxpayer's per diem deductions are as follows:

Total

70 legislative session days @ \$156	\$10,920
15 interim committee days @ \$156	<u>2,340</u>
Total	\$13,260

Taxpayer's reimbursements from the State of Oklahoma are as follows:

70 legislative session days @ \$156	\$10,920
15 interim committee days @ \$25	<u>375</u>
Total	\$11,295

The above expenses will be reported on Form 2106 as follows:

Lodging –	70 days @ \$97	\$6,790
	15 days @ \$97	<u>1,455</u>
	Total lodging to be included on line 3.	\$8,245
Meals & Incidentals –	70 days @ \$59	\$4,130
	15 days @ \$59	<u>885</u>
	Total meals and incidentals to be included on line 5.	\$5,015

Exhibit F (cont.)

The reimbursed expenses are to be allocated as follows:

Session days allocations –	Through December 31, 2017		
Lodging	62.00 %	(\$10,920)	\$ 6,770.00
Meals & Incidentals	<u>38.00 %</u>	<u>(\$10,920)</u>	<u>4,150.00</u>
Total	100.00 %		\$10,920.00

Interim committee days allocations –

Lodging	62.00 %	(\$ 375)	\$ 233.00
Meals & Incidentals	<u>38.00 %</u>	<u>(\$ 375)</u>	<u>142.00</u>
Total	100.00 %		\$ 375.00

The reimbursed expenses are to be reported on line 7 of Form 2106 as follows:

Column A, Lodging	(\$6,770.00 + 233.00)	\$ 7,003.00
Column B, Meals & Incidentals	(\$4,150.00 + 142.00)	<u>4,292.00</u>
Total		\$11,295.00

Other legislative expenses deducted on Form 2106

Automotive Expenses (Form 2106, Page 2)

On February 18, 2017, taxpayer purchased a 2017 automobile at a cost of \$25,000 (including excise tax). During the 2017 year, taxpayer drove a total of 12,000 miles of which 8,400 were business miles and properly noted in the taxpayer's substantiation records.

Taxpayer's written records indicate that the following automobile expenses were paid in 2017:

Gasoline and oil	\$ 2,200.00
Repairs and maintenance	375.00
Insurance	<u>600.00</u>
Total carried to line 23, Form 2106	\$ 3,175.00

Based on taxpayer's written records, 70 percent (8,400 business miles / 12,000 total miles driven) is deductible as employee business expense.

Depreciation of the auto is based on IRS instructions that the auto may not be depreciated over a period of less than five years. Taxpayer selects the five-year period, MACRS 200% Declining balance method of depreciation. The IRS also states that for a qualifying automobile purchased after December 31, 2016, the maximum first-year depreciation may not exceed \$3,160 if used 100 percent for business. Qualifying light vans, SUVs and trucks with gross vehicle weight of 6,000 pounds or less are limited to \$3,560 first-year depreciation. These limits do not apply to qualified non-personal use vehicles. Since taxpayer used the auto only 70 percent for business, the 2017 depreciation deduction is limited to \$2,212. Congress extended a law that would allow taxpayers to take an additional 50% of the cost of new depreciable property in the first year. Taxpayers who choose that option would be allowed up to \$11,160 of depreciation in the first year (for 100% business usage). Of course taking the larger deduction in 2017 will result in smaller depreciation deductions available in later years. For this example, we assume that the taxpayer elected out and did not take the additional first-year depreciation.

Using the actual expense method, taxpayer is entitled to deduct the following:

Actual operating expenses (70% x \$3,175)	\$ 2,223.00
Depreciation (70% x \$3,160)	<u>2,212.00</u>
Total carried to line 1, Form 2106	\$ 4,435.00

Alternatively, taxpayer may elect to use the standard mileage rate. The rate for 2017 is 53.5 cents per business mile for the year. The standard mileage rate yields a deduction of (8,400 mi @ 53.5 cents/mi) \$4,494.

Please refer to page 2 of the enclosed sample Form 2106.

Other Legislative Expense –

Taxpayer's written records include the following other expenses:

Parking fees	\$ 35.00
Turnpike fees	160.00
Taxi fares	<u>40.00</u>
Total carried to line 2, Form 2106	\$ 235.00

Business Expenses –

Telephone calls	\$ 250.00
Advertising	300.00
Postage	100.00
Publications	60.00
Administrative services	175.00
Business gift (\$50 total) maximum deductible	25.00
Flowers for business associate	<u>25.00</u>
Total carried to line 4, Form 2106	\$ 935.00

Form 2106

Other Business Expenses

Statement 1

<u>Description</u>	<u>Amount</u>
Telephone	\$250
Advertising	300
Postage	100
Publications	60
Administrative Services	175
Business Gift (\$50 total), maximum deductible	25
Flowers for Business Associate	<u>25</u>
Total to Form 2106, Part 1, Line 4	\$935

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