



# The Ohio Legislator's Guide to 2016 Taxes

Prepared by The Ohio Society of CPAs for the 2017 filing season

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*Special thanks to the following Society members responsible for  
The Ohio Legislator's Guide to 2016 Taxes:*

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In recent years, The Ohio Society of Certified Public Accountants and the members of the Ohio General Assembly have formed an effective partnership in helping to make Ohio a better place in which to work and live.

Ohio's CPAs have welcomed opportunities to testify before the House and Senate on many issues, and to share concerns through correspondence and in forums around the state. We appreciate your willingness to hear our views on matters that impact the accounting profession, business community and the taxpayer.

With more than 21,000 members, The Ohio Society of CPAs provides expert advice on a wide variety of economic, business and financial issues. Please don't hesitate to use The Ohio Society as a resource for any business issues of concern to you or your constituents.

In an effort to be of assistance to you, The Ohio Society has prepared, and is pleased to present, The Ohio Legislator's Guide to 2016 Taxes. This guide will be helpful to you by answering some frequently raised questions about income tax laws that specifically affect you as a member of the Ohio General Assembly. As you know, tax laws change periodically, and court decisions and Internal Revenue Service rulings further complicate the picture. Therefore, material in this guide should be considered current for the 2016 tax year only.

If you have additional questions, or if you need assistance in preparing your income tax return, we suggest you contact your CPA. If you don't have a CPA, we would be happy to refer you to a CPA in your district.

Sincerely,



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## PREFACE: THE CPA PROFESSION TODAY

Today's CPA plays a pivotal role in many diverse areas of business management—in government, industry and education, as well as in public accounting. CPAs bring expertise in taxation and tax planning; estate, trust and retirement planning; auditing; budgeting; management advisory services; financial management and financial forecasting; and review and compilation of financial statements.

The highest professional standards and integrity are hallmarks of the CPA profession. To earn the Certified Public Accountant designation issued by the Accountancy Board of Ohio, an applicant must:

- Fulfill stringent education requirements.
- Pass a comprehensive examination covering accounting practice, accounting theory, taxes, commercial law and auditing.
- Pass an ethics exam.
- Abide by the profession's Code of Professional Conduct.

To maintain a license for public practice by the state, a CPA must also complete 120 hours of continuing professional education (CPE) every three years. In addition, members in public practice must participate in an accredited peer review program, which ensures adherence to quality standards that the CPA profession has adopted.

The Ohio Society of Certified Public Accountants represents more than 24,000 members from across the state. Its members subscribe to the rules of professional conduct embodied by the Society's Bylaws. However, members of The Ohio Society are not content to simply meet the statutory and regulatory standards that the state imposes on CPAs.

Their association with The Ohio Society means they embrace rigid membership standards reflecting the strict demands they place on themselves.

Today's complex business environment is placing increasingly tougher demands on CPAs. This is why The Ohio Society has adopted stricter educational requirements to ensure future CPAs maintain the profession's traditional strict standards of excellence. In addition, The Ohio Society subjects all member CPAs, not just those in public practice, to a Code of Professional Conduct that is goal-oriented and full of aspiration, aspirational, ethics based in its performance standards, and enforceable.

For these reasons, businesses and individuals in Ohio can expect excellence from CPAs who are members of The Ohio Society.

## RECORD KEEPING

### What kind of information do I need to substantiate my deduction for travel, entertainment and other business expenses?

Records should be kept in an account book, diary, statement of expense, or similar record with adequate documentary evidence to support each expense item. Making entries in a log at the time the expense is incurred has a higher degree of credibility than a statement prepared later.

The necessary elements for recording travel expenses are:

1. **Amount.** Amount of each separate expenditure incurred while traveling away from home, such as cost of transportation or lodging. The cost of travel by automobile may be substantiated through using a standard mileage allowance not in excess of 54 cents per mile for 2016 and 53.5 cents per mile for 2017.
2. **Date.** Dates of departure and return for each trip away from home, and number of days away from home spent on business.
3. **Place.** Destination or locality of travel, identified by the name of the city or town or other similar designation.
4. **Business purpose.** Business reason for travel and/or the nature of the business benefit derived or expected to be derived as a result of travel.

Entertainment expenses should be recorded as follows:

1. **Amount.** Amount of each separate expenditure for entertainment, except that such incidental items as taxi fares or telephone calls may be aggregated on a daily basis.
2. **Date.** Date of the entertainment.
3. **Place.** Name, address or location, and identification of the type of entertainment, such as dinner or theater, if such information is not otherwise apparent.
4. **Business purpose.** Business reason for the entertainment or the nature of the business benefit derived or expected to be derived as a result of the entertainment. Also, document the nature of any business discussion or activity.
5. **Business relationship.** Occupation or other information relating to the person or persons entertained, including name, title or other designation, sufficient to establish the business relationship to you. (If you entertain a relatively large group of people, you need not record the names of each individual present if a class designation would suffice to indicate the business relationship. However, members of the group must be readily identifiable. If the group is not so large and heterogeneous that members could not be easily identified, you are required to list each person entertained.)

If the entertainment is “*associated with*” rather than “*directly related to*” the active conduct of your trade or business (as explained in the Business Meals and Entertainment Expenses section), you must also record:

- a. The date and duration of the business discussion which preceded or followed the entertainment.
- b. The place where the business discussion was held.
- c. The nature of the discussion, its purpose and the benefit derived or expected from the discussion.
- d. The identity of the persons entertained who participated in the business discussion.

### Entertainment facilities:

Entertainment facilities include any property you own, rent or use for entertainment. Examples of a personally owned entertainment facility include, but not limited to, a yacht, hunting lodge, fishing camp, swimming pool, tennis court, bowling alley, car, airplane, apartment, hotel suite, or home in a vacation resort. In general, no deduction is allowed for any expense paid or incurred with respect to such facilities. This disallowance generally does not apply to civic, professional or business organizations.

However, you may be able to deduct *out-of-pocket expenses* that take place at the facility. Expenses such as cost of meals and beverages provided to business associates at the facility are deductible expenses subject to the limitations discussed in the Business Meals and Entertainment Expense section of this guide.

Since 1993, the IRS Code has barred deductions for amounts paid or incurred for membership in any club organized for business, pleasure, recreation or other social purpose. The IRS has defined the term “*club*” for purposes of this rule, as any club organized for business, pleasure, recreation or other social purposes. This includes any membership organization if the principal purpose of the organization is to conduct entertainment activities for the members of the organization or their guests with access to entertainment facilities. These include and but are not limited to country clubs, golf and athletic clubs, airline clubs, hotel clubs and clubs operated to provide meals under circumstances generally considered to be conducive to business discussion.

While a deduction for amounts paid for membership in a club is not allowed, specific business expenses at a club are deductible to the extent they otherwise satisfy the rules for deductibility. For example, 50% of allowable meals and entertainment expenses are deductible. Thus, while membership dues for a business club are not deductible, 50% of qualifying meal expenses may be deducted. Records must be kept documenting all of the elements of each expenditure for each business use. In addition, the records must include appropriate entries describing the use, cost, date, number of persons entertained, nature of entertainment and business relationship, as discussed earlier.

There **are** organizations that would *not* be treated as “clubs” under this rule.

These include professional organizations (such as bar associations and medical associations), business leagues, trade associations, chambers of commerce, boards of trade, real estate boards, and civic or public service organizations (such as Kiwanis, Lions, Rotary and Civitan).

The rules relating to the deduction of entertainment facility expenses are very complex. The documentation requirements are rigid and must be strictly adhered to. Therefore, it's advisable to consult your CPA for a more detailed explanation of these very complex provisions.

### **Gifts:**

If you wish to deduct business gifts, you must substantiate:

1. The cost of the gift, including a description. The maximum deduction for business gifts to any one individual is \$25 per year.
2. The date the gift was made.
3. The business reason for or the benefit derived or expected as a result of the gift.
4. The relationship of the recipient to you, including name, title or other designation sufficient to establish such relationship. It is not necessary to record the recipient's name in certain situations if the business relationship of the gift is clear and if it is apparent that you are not attempting to avoid the \$25 limitation. For example, if you purchase a large number of inexpensive tickets to a local high school basketball game and distribute one or two of them to each of a large number of constituents, you need not record the names of the recipients. However, you must still substantiate the cost, date, description and business purpose of the gift.

### **Adequate records and other evidence:**

You must record the above elements for each separate expenditure. Generally, a single payment for goods, services or facilities will be considered a separate expenditure. Thus, when you entertain a guest at dinner and the theater, the payment for the meal and the tickets constitute separate expenditures, each of which must be individually recorded. If you hold season or series tickets to an event, you must treat each ticket in a series as a separate item and record the use of each for entertainment or gift purposes.

However, concurrent or repetitious payments made during the course of a single event which are of a similar nature may be treated as a single expenditure. For example, rounds of drinks paid for separately during an evening's entertainment at one place may be treated as a whole.

In some instances, certain kinds of expenses can be aggregated on a daily basis. Thus, the regulations permit you to treat as one expenditure the total meal expenses (breakfast, lunch and dinner) incurred in one day. Tips may be aggregated with the expense of the services to which they relate. Other expenses that may be grouped include gasoline and oil, taxi and telephone calls.

**Adequate records consist of:**

Diaries or account books. The elements of an expenditure should be recorded “*at or near the time*” when the expense was incurred. Such timely recording is believed to have a “*high degree of credibility not present with respect to a statement prepared subsequent thereto.*” Thus, although no special form of records must be maintained, the IRS prefers that you keep a diary or account book in which entries can be made on a daily basis. The amount of detail in a diary or account book will vary with the facts and circumstances of each expenditure. Where documentary evidence is required, it is not necessary to make a diary entry which duplicates information contained in the receipt, if the receipt and diary complement each other in an orderly fashion. Again, when the business purpose of an expenditure is evident from surrounding facts and circumstances, a written statement of such business purpose is not required.

**Documentary evidence:**

A diary or account book is not sufficient substantiation in all circumstances. You must also be prepared to produce documentary evidence (i.e., receipts, paid bills, etc.) in order to deduct lodging expenses incurred while traveling away from home and expenses in excess of \$75.

Usually a receipt will suffice if it contains enough information to establish the amount, date, place and character of an expense. Thus, a hotel receipt must include the name, location, date and the separate charges for lodging, meals, telephone, etc., if it is to serve as adequate substantiation of a business travel expense. Similarly, a restaurant receipt must indicate the name and location of the restaurant, the date, and the charge for food, beverages and other items.

A canceled check will not ordinarily constitute adequate documentary evidence since it does not show in detail the specific items composing the total expenditure. For example, if you make a long-distance telephone call to your home (a personal expense), a hotel receipt would usually indicate this fact while a canceled check would not. However, a canceled check, in connection with the payee's bill, will typically be sufficient to substantiate the business nature of an expenditure. Providing the necessary detail is important because it is the basis upon which an allocation between personal and business expenses can be made. Moreover, when expenses are incurred with respect to certain persons who are generally not deductible (e.g., spouses), it is essential that evidence of the cost incurred related to them be available. Otherwise, they will be deemed to bear proportionate share of the total charge.

**Retention of records:**

You must retain your records and related documentary evidence in support of travel, entertainment and gift deductions during the period that your tax return is subject to audit. Normally, this period is three years from the date of filing the tax return on which the deduction is claimed. If there has been a substantial (25% or more) understatement of gross income, the statute of limitations is extended to six years instead of three years. Also, there is no statute of limitations in cases of fraud, or if no return was filed.

**TRAVEL, ENTERTAINMENT, AND GIFTS TABLE SUMMARY**

Elements to be substantiated	For travel away from home expenditures	For automobile travel and transportation expenditures	For entertainment expenditures	For gift expenditures
Amount	Amount of each separate expenditure for transportation, lodging and meals. Permissible to aggregate incidental expenses in reasonable categories, such as taxis, daily meals, etc.	Cost of travel by automobile may be substantiated by using the standard mileage rate. Under actual method, amount of operating expenses must be substantiated.	Amount of each separate expenditure. Incidental items, such as taxis, telephones, etc., may be aggregated on a daily basis.	Cost of gift (limited to \$25 per donee per year).
Time	Dates of departure and return for each trip, and number of days attributable to business activities.	Date of travel must be noted. One entry can be made for round trip.	Date of entertainment or use of a facility for entertainment (duration of business discussion).	Date of gift must be noted.
Place	Destination by name of city or other appropriate designation.	Destination and number of miles must be substantiated.	Name and address or similar designation of place of entertainment. Type of entertainment if not otherwise apparent.	Not applicable.
Description	Not applicable.	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 for automobile use.	Business reason for the entertainment or the nature of the business benefit derived or expected to be derived as a result of the entertainment. Also, document the nature of any business discussion or activity.	The business reason for or the benefit derived or expected as a result of the gift.
Business Relationship	Not applicable.	Not applicable.	Occupation or other information relating to the person or persons entertained, including name, title or other designation, sufficient to establish the business relationship to you.	The relationship of the recipient to you, including name, title or other designation sufficient to establish such relationship.

## BUSINESS MEALS AND ENTERTAINMENT EXPENSES

### What are the current tax rules on non-reimbursed business meals and entertainment expenses?

The deduction for non-reimbursed business meals and entertainment expense is limited to 50% of the expenditures. In order to qualify for a deduction, you must substantiate by adequate records or by sufficient oral or written evidence your claim for the deduction. To qualify as a deductible expense, a meal or entertainment expense must be “*directly related to*” or “*associated with*” the active conduct of your trade or business. In general, business meal or entertainment expenditure is “*directly related*” if all of the following four conditions are met:

1. You have more than a general expectation of deriving a specific business benefit from the meal or entertainment. However, you are not required to show that income or a specific business benefit actually results.
2. You did in fact engage in business discussions during the meal or entertainment.
3. The principal nature of the expense was the active conduct of your trade or business.
4. The meal or entertainment expense must be for you and the persons with whom you are conducting business.

A meal or entertainment expense is “associated with” the active conduct of a trade or business if it occurs directly before or after a bona fide business discussion. It is acceptable if both events occur on the same day. However, if the meal and entertainment expense and the business discussion are not on the same day, the facts of each situation will be considered to determine if the expenses were associated with the active conduct of business. Because you are considered to be an employee of the State of Ohio, the non-reimbursed business meals and entertainment expenses must be listed in the appropriate section of Federal Form 2106. Once the expenses are listed and properly tabulated, the total allowable employee business expenses on Form 2106 are carried over to Federal Schedule A and included in the miscellaneous itemized deduction section. Then, the miscellaneous itemized deductions are deductible to the extent they exceed 2% of your Adjusted Gross Income (AGI).

### To what does the 50% rule for business meals and entertainment apply?

The rule applies to all meals, including meals you incur while traveling for business; taxes and tips associated with meals or entertainment; and other related expenses (e.g., nightclub cover charges, room rental for a cocktail party, and parking at the theater or sports arena). However, transportation to and from the business meal or entertainment is not subject to the 50% rule. Where the cost of the meal or entertainment is reimbursed, the 50% rule applies to the party making the reimbursement, typically an employer. For business meals and entertainment, the 50% limitation is applicable only if the expense is deductible in the first place. In addition to meeting the “directly related to” or “associated with” tests in order to be

deductible, the business meal or entertainment must not be considered lavish or extravagant under the circumstances. Examples would be:

- a. Generally limiting the deduction for tickets to their face amount before applying the 50% rule.
- b. Limiting the deduction for the rental of a skybox to the non-luxury box seat value, before applying the 50% rule.

### **I met over breakfast with a constituent regarding a state problem and paid for his meal. Can I deduct this expense?**

Yes, subject to the 50% limitation discussed above. For example, assume a meal in 2016 cost you \$50, including taxes and tip, and you incurred \$15 in taxi fare getting to and from the meal. You can claim a miscellaneous itemized deduction of \$25 ( $\$50 \times 50\%$ ) for the meal plus the full \$15 for the taxi fare. Remember to maintain your expense diary as to who, where, when and how much.

### **Because of my position in the community, I occasionally entertain other elected officials, primarily for the purpose of maintaining communication with them. Can I deduct this expense?**

Yes, subject to the 50% limitation discussed earlier and provided that the meeting or entertainment is directly related to or associated with your legislative position. This generally requires that a bona fide business discussion directly precede or follow the entertainment. Here again, it is necessary that you keep an itemized record to indicate the date, place, who was there and the purpose of the meeting or entertainment, together with receipts for expenses in excess of a total of \$75.

### **Under the current law, where should business meals and entertainment expenses be reported on my 1040?**

Non-reimbursed employee business expenses are deductible as miscellaneous itemized deductions on Schedule A. Form 2106 must be completed to support the deductions claimed on Schedule A. These non-reimbursed business expenses will be grouped with other miscellaneous itemized deductions and will be deductible only to the extent they exceed 2% of your adjusted gross income (AGI).

A state or local government official, who is compensated on a fee basis to provide certain services, may deduct all of their employee business expenses relating to their service as an official above the line in arriving at adjusted gross income (AGI) in accordance with IRC 62(a)(2)(c). However, The IRS has ruled that Ohio legislators are not paid on a fee basis and therefore must deduct their expenses on schedule A as an itemized deduction subject to 2% of AGI limitations.

The following questions and answers assume that your tax home (permanent residence) is in the legislative district you represent. Contact your CPA to help you make this important determination.

## AUTOMOBILE AND TRAVEL EXPENSES

**Since I receive reimbursement from the State of Ohio for mileage to Columbus while in session, plus mileage reimbursements for special meetings and other committee assignments, would it not be best to just disregard the reimbursement entirely and assume that it is completely offset by mileage expenses and, therefore, not report anything?**

If business mileage records are maintained (see Record-keeping Requirements discussion) and you are fully reimbursed for actual mileage driven at the standard mileage allowance rate, it is not necessary to report anything on your federal income tax return. However, to the extent that you are not taxed on your reimbursements, you may not deduct the related expenses. If you incur business expenses for which you are partially reimbursed, you must report all of your reimbursements and all of your related expenses on Form 2106 (detailed below) in order to be permitted to deduct the non-reimbursed portion of your business expenses.

**FOR EXAMPLE:** The 52 cents per mile travel allowance allowed to a member for one round trip per week from the legislator's home to the Capitol would be a reimbursement required to be reported on their 2016 Form 2106, line 7. If the legislator is using the cash basis of accounting to report income and expenses, then funds received during 2016 should be included on his or her 2016 Form 2106. Furthermore, fourth quarter 2016 reimbursement checks dated and delivered in January 2017, would be reportable in 2017.

### **How do I report my mileage or automobile expenses on my tax return?**

Generally, you compute your deductible automobile expenses by using either the IRS standard rate or by deducting actual expenses including depreciation. If you choose to use the standard rate for 2016, you will have to multiply standard mileage allowance for the applicable time period by your total business miles. If you elect to use actual expenses, you multiply your actual automobile expenses by your business use percentage. The business use percentage is computed by dividing your total business miles by total miles driven during the year (See Part II - Form 2106 included in this booklet). You can also take parking fees and tolls, regardless of the method you choose. All non-reimbursed mileage or automobile expenses are reported on Form 2106 Employee Business Expenses. A sample Form 2106 is included in the back of this booklet.

Business automobile and travel expenses carry forward from Form 2106 to Schedule A as miscellaneous itemized deductions. Miscellaneous itemized deductions are deductible only to the extent they exceed 2 percent of your adjusted gross income. A sample Schedule A is also included in the back of this booklet.

**How do I determine whether the standard mileage allowance or my actual automobile expenses is better for me?**

The method yielding the greatest deduction depends on the number of business miles driven. Simply compare the deduction based upon actual automobile expenses, including depreciation, to the deduction available using the standard mileage allowance.

**If I itemize my actual automobile expense for one year, can I use the standard mileage allowance method the following year and vice versa?**

If you wish to utilize the standard mileage rate, you must choose the standard mileage rate the first year you place your automobile in service. If you do not choose the standard mileage rate the first year, you may not use it for that automobile in subsequent years. If you use the standard mileage rate the first year, you are considered to have made an election not to use the modified accelerated cost recovery system. If you change to the actual cost method in a later year, but before the car is considered fully depreciated, you must use straight-line depreciation. Continual tax reform has complicated the response to this and many other questions regarding depreciation for post-1980 asset acquisitions. Therefore, you are well advised to consult a certified public accountant to have your options more clearly defined for you.

**If I elect to use my actual automobile expenses, what specific expenses am I allowed?**

Deductible items include the cost of gas, oil, tires, repairs, maintenance, insurance, depreciation, licenses, garage rent, parking fees, and tolls. If you use your car exclusively in your business, you may deduct all of the cost of its operation. If you use your car for both business and personal purposes, you must allocate your expenses between business and personal use.

**Two items appear to be missing from the list of deductible automobile expenses: the sales tax I pay on the purchase of my new car and the interest I pay on the loan to finance the purchase. Aren't these items deductible anymore?**

Sales tax currently is deductible if the sales tax exceeds the state and local income tax deduction. Usually the state and local income tax deduction provides a larger deduction. If this is the case then the sales tax is included as part of the cost basis of the automobile for purposes of computing depreciation. Interest on a car loan for a car used by an employee is considered to be consumer interest and, as such, is not deductible. If the car loan is secured by a mortgage on your principal residence, then subject to limitations, the interest can be deducted.

**What depreciation methods are available under the current tax law?**

Generally, automobiles placed in service after December 31, 1986, and used more than 50 percent for business are depreciated over five years using a 200 percent declining balance method, with an automatic switch to straight-line at a point to maximize the deduction. Unless the auto meets the two exceptions below, then the depreciation is subject to the luxury auto limitations. Please consult your CPA for those limitations and other planning opportunities should you be considering purchasing or leasing an automobile.

Certain vehicles that weigh more than 6,000 pounds are not considered passenger automobiles under the tax code. Therefore, these vehicles are not subject to the luxury automobile depreciation limitations. Vehicles in the sport utility category are likely to meet this weight exception; however, SUV's are limited to a \$25,000 maximum expense deduction, assuming the vehicle is utilized more than 50% for business purposes under section 179.

Generally, the automobile is treated as placed in service in the middle of the year. Thus, you get a half-year of depreciation in the initial year the automobile is placed in service and a half-year of depreciation in the year the property is disposed of or retired from service.

If qualified business use in the initial year is 50% or less, depreciation must be computed under the straight-line method using a five-year life. If qualified business use exceeds 50% in the first year but falls to 50% or less in a subsequent year, you must change to the straight-line method of computing depreciation using a five-year life. Also, as noted in the following question, the reduction in business usage may also result in the recognition of income in the form of recapture of depreciation claimed in prior years. The law and regulations regarding depreciation deductions can be extremely complex. Consult your certified public accountant when questions in this area arise.

**Other than travel to and from the Statehouse, what mileage can I count?**

You are likely to travel on business a great deal while in your home district or on business trips to other locations outside your district. Deductible travel includes travel to meetings or events where you will speak or which you believe is important to attend because of your political position.

This mileage can become substantial, particularly if your district is large. You may be required to travel several miles from one town to another to attend civic functions, political functions or other meetings related to your legislative duties. Therefore, a memorandum of this mileage should be recorded.

**If I use another mode of transportation to get to Columbus, such as a bus or airplane, can I deduct these expenses in addition to my mileage expense?**

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

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

When you ride with someone else and do not directly incur any travel expense yourself, you cannot claim a tax deduction for mileage.

**What about mileage expenses incurred during my reelection campaign? Although I am running for reelection, I continue to have a responsibility to meet with constituents to explain my activities and views as a current member of the Ohio General Assembly.**

The Internal Revenue Code specifically states that campaign expenses are not tax deductible. (See section on campaign expenses.) Because of this, it is very important for you to distinguish between those expenses that are directly related to a campaign for reelection and those expenses which can be directly attributable to serving your constituency.

If there is no specific starting date to your campaign, you might set up a time period about one month before the date of the primary or general election and record, but not claim, any expenses incurred during this time as business expenses.

Consider these expenses as strictly nondeductible campaign expenses. Take the business expenses incurred prior to this one-month period, maintain the necessary records, and claim them as tax-deductible expenses. These expenses must be directly related to the business purpose of fulfilling your obligation as an elected state official.

**I stay in a hotel in Columbus during the legislative session and I am required to drive to the Statehouse each day. Can I include this mileage as business mileage?**

Yes. Your residence in Columbus is not considered your tax home (permanent residence); therefore, it is considered a deductible commuting expense. You may include the mileage from your Columbus residence to the Statehouse or to any other location as long as the purpose of the travel is directly related to the business of being a member of the Ohio General Assembly.

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

No. The mileage from your residence to your local place of business is not deductible. This is considered a nondeductible commuting expense.

**I received a traffic ticket because I was rushing to get to the Statehouse for a committee meeting. Is the fine a tax-deductible expense?**

No. A traffic fine is a penalty and, therefore, not a deductible expense.

**Would leasing an automobile be more advantageous for tax purposes than owning one and depreciating it?**

The answer depends on the actual facts and circumstances involved. The amount of expenses allowable remains the same, except that lease payments have replaced depreciation as an eligible expense item. In addition, the IRS has published regulations that adjust the amount of a lease deduction as if it were subject to the same limitations as the depreciation deduction. Keep in mind that leasing an automobile does not relieve the record keeping requirements that must be followed to determine the business use of the automobile and substantiate the deduction.

**Does the 2016 standard mileage rate of 54 cents per mile cover all automobile expenses?**

No. In addition to the standard mileage rate you may also deduct parking fees and tolls.

## LIVING EXPENSES

**When I am in Columbus, can I deduct a per diem amount for meals, lodging and other living expenses?**

Yes, under certain circumstances. The location of your tax home is significant since employees can deduct the cost of meals, lodging and other incidental living expenses only if they are away from their tax home overnight in the pursuit of their trade or business. In lieu of deducting actual expenses, you may use a per diem rate established by the IRS. The rate used depends upon the location of the travel. For travel to Columbus, the rate is \$174/day for travel through September 2017. If you use the IRS per diem rate, you are relieved of the record-keeping requirements. The meals portion of the per diem would be subject to the 50% meal and entertainment limitation discussed elsewhere in this Guide. Also, the balance is subject to the miscellaneous expense deduction disallowance of 2% of adjusted gross income, discussed elsewhere in this Guide. The portion of the per diem rate applicable to meals and incidental expenses is \$59 for 2016 and \$59 for 2017. The incidental expenses make up \$5 of M&IE.

If you live more than 50 miles from the state capitol, you may make an election under IRC 162(h) to have your place of residence within your legislative district considered to be your tax home. If you do not have separate business interests, you must make this election in order to deduct travel expenses.

If this “*Special Election*” is made, the per diem deduction is available for the following days:

1. Days the full legislature is in session (including deemed days, periods of up to four consecutive days when the legislature is not in session). Per an IRS ruling, skeleton session days and related deemed days can be claimed in the per diem deduction only by legislators who are physically present at the skeleton session.
2. Days the legislature is not in session, but your physical presence is formally recorded at a meeting of a committee of the legislature.

### How do I elect to use the per diem amounts for meals and living expenses?

Under IRC 162(h), you, as a state legislator, may call the district that you represent your tax home. Therefore, you would be entitled to a per diem deduction for deemed legislative days. The election is made on an annual basis when you file your Form 1040. For federal income tax purposes, the deemed days are calculated annually for you by the administrative staff of the Senate and House of Representatives. A letter will be given to you by your respective administrator with this calculation.

Legislators who meet these qualifications generally will find this to be a preferable method of reporting living expenses. Only legislators who live at least 50 miles from the Statehouse are permitted to use deemed days; those who live closer are not impacted. (See cautionary note in the Business Meals and Entertainment Expenses section above regarding this matter.) Attached is an example of this election which should be attached to Form 1040. A copy of the letter you receive from your House or Senate administrative officer can also be attached to Form 1040.

**NOTE:** Consult your CPA for information regarding the time and manner for making this “*Special Election*,” and be sure to give your CPA a copy of your “*deemed days*” letter. Because you may include attendance at qualified committee meetings and attendance at skeleton sessions, the number of deemed days you claim may be different from those of your colleagues. For additional clarification on the IRS’s view on this issue, please see the attached IRS memo at the end of this Guide.

### What expenses can I deduct for costs incurred while living in a hotel, apartment, camper or similar mode of residence while in Columbus?

When residing in hotels, motels and other similar commercial places while in Columbus and away from your normal (tax) residence, you are allowed to deduct the actual amount paid for the room (including any taxes and service charges).

If accommodations are shared with other legislators or individuals, you may deduct your share of the expenses. If accommodations are being leased on a monthly basis, you may deduct your share as long as it is paid by you and is for the purpose of providing a place to stay while you are away from home on business. If you live in

an apartment or share an apartment with another individual, you may deduct your share of the rent, utilities, telephone and any furniture you may be required to rent in order to furnish the apartment.

In each case, whether or not it's a hotel or an apartment, you or someone within the group with whom you are staying should keep copies of paid bills for use in any future IRS examination. In cases where accommodations are shared, it would be best if each member of the group has copies of the paid vouchers. Each member should also receive an annual summary showing the total costs of the accommodations and how these costs were divided among the various roommates.

If you own a trailer or a camper and live in it while in Columbus, your deduction will be based on the following computation:

1. Determine the cost of the camper, the furnishings and the hitch for the car.
2. Based on the cost determined in item (1) and the depreciation method you select, compute the allowable depreciation on an annual basis for the camper, furnishings and the hitch for the car.
3. Determine the cost of maintaining the camper, such as batteries, tune-ups, water supply, etc.
4. Determine the percentage of time the camper is used for business. The percentage is based on the number of days used for business over the total number of days the camper is used for all purposes. Business use would include days used as a Columbus residence plus days used on legislative business away from Columbus during which you travel to other cities in your district and use the camper to stay overnight. (Records should be kept of the number of days used for business and days used for other purposes, such as family vacations and other personal use.)
5. Multiply the sum of items (2) and (3) by the percentage in item (4).
6. Your deduction is the amount determined in item (5) plus the full fees paid for parking in trailer camps while on business. If you park in a free parking lot, of course, there is no expenditure; therefore, no deductible parking expense is incurred.

The above deductions, unless reimbursed, will be miscellaneous itemized deductions subject to the 2% of adjusted gross income limitation.

### **What expenses can I deduct for meals when I'm in Columbus?**

You may deduct 50% of the cost of meals that you paid for yourself in 2016 (subject to the 2% of adjusted gross income limitation) while staying in Columbus. You should retain a record that shows the amount that you personally paid for breakfast, lunch, dinner and/or any other meal expense you incur while you are in Columbus.

You cannot deduct the cost of a meal paid for by someone else. Similarly, when

you are attending banquets in Columbus held by various associations, you are not allowed a deduction for this meal. Therefore, it is necessary to keep a record showing only the meals you personally paid for. If you are living in quarters that provide cooking facilities, the cost of groceries and necessary beverages is deductible. To be safe, you should keep receipts and all canceled checks to support your business expenses.

**Because we are in Columbus for long periods of time, I like to have my spouse and children come to Columbus on occasion. Can I deduct the cost of their travel to Columbus, hotel costs and the cost of their meals?**

No. These expenses would be considered personal and thus not deductible.

**When committee meetings last late into the evening, I go out and grab a sandwich or other refreshment. Is this a deductible business expense?**

Yes, subject to the 50% limitation.

**I stay at the Athletic Club when we're in session. In order to stay there, I must pay dues as well as the cost of the room. Can I deduct the cost of these dues?**

No, such dues are not deductible for 2016.

## OFFICE AT HOME

**Can I deduct any costs of my home as a business expense?**

The Tax Relief Act of 1997 provided hope to taxpayers beginning January 1, 1999. The amended law specifically provides that a home office qualifies as the "principle place of business" if (a) the office is used by the taxpayer to conduct administrative or management activities of a trade or business and (b) there is no other fixed location of the trade or business where the taxpayer conducts substantial administrative or management activities of the trade or business. The deductions will be allowed for a home office meeting the above two-part test only if the office is exclusively used on a regular basis by the taxpayer and, in the case of an employee, only if such exclusive use is the convenience of the employer.

**I have a legislative assistant in my home district, to whom I pay a token amount each month. Am I required to go through the process of filing payroll tax returns and withholding payroll taxes?**

In most situations, all amounts paid for services are subject to payroll tax laws. In addition, workers compensation rules apply. However, there are some exceptions (such as in the case of an independent contractor). In any situation where there are various reporting requirements, you should consult your certified public accountant.

**Instead of an office in my home, I maintain a rented office in my district for the purpose of serving my constituency. What expenses can I deduct on my tax return for the cost of maintaining this office?**

If the office is being used exclusively for legislative purposes, expenses related to the office rent, utilities, depreciation on improvements and equipment, etc. are 100% deductible (subject of course to the 2% of adjusted gross income limitation). However, expenses incurred during campaign time must be excluded. Also, if campaign contributions for maintaining the office exceed the cost of operating the office, then you may have taxable income. Keep a detailed record of all receipts from all sources to determine whether or not your expenses exceed your income. If expenses exceed funds from sources other than yourself, and such expenses are in fact campaign expenses, then these specific expenses are not deductible (see questions and answers under Campaign Expenses).

**Can I claim any deductions regarding my use of a personal computer for business purposes?**

To obtain a deduction for a computer used in your home, you must establish that it is there for the “*convenience of your employer and required as a condition of employment.*” Furthermore, you must furnish substantiation to that effect. Also, you are required to document the business usage and the total usage (including non-business usage) of the computer. Therefore, under current law, it is very difficult to obtain a deduction for a home computer. Consult with your certified public accountant regarding the tax aspects of using a home computer for a business.

## ENTERTAINMENT AND MEAL EXPENSES AT HOME

**I met in my home with a constituent regarding a state problem. Can I deduct the cost of food and beverages I provided at this meeting?**

Yes, but remember to maintain an expense diary indicating who, why, where, when and how much. Also, remember that the allowable deduction will be only 50% of the meal cost and is again subject to the 2% of adjusted gross income limitation.

**Because of my position in the community, I occasionally entertain other elected officials in my home. Can I deduct this expense?**

Yes, as long as it is related to your legislative position and you can show the business purpose for the entertainment or meeting. Again, it is necessary that you keep an itemized record to indicate the date, place, who was there and purpose of the meeting. Only 50% will be deductible (subject to the 2% of adjusted gross income limitation).

## TELEPHONE EXPENSES

**Since I use the telephone to talk to constituents and for other state business, can I deduct its cost?**

You are not allowed to deduct the basic charge for the first telephone line into your

residence. Also, you cannot deduct any sales taxes, excise taxes, or any local, per-call charges related to this telephone line.

However, even if you have only one telephone line in your residence, you may continue to deduct long-distance calls that relate to state business; charges for equipment, rental and optional services offered by the telephone company (such as call waiting or call forwarding); use of an answering service if it is related to your position as a member of the General Assembly; and an answering machine to record messages phoned to your home in your absence.

If you have a separate telephone line installed exclusively for use in your legislative business, the entire cost of this telephone line can be deducted as a business expense.

All of your deductible telephone expenses are subject to the 2% of adjusted gross income limitation. The cost of cell phones and other similar telecommunications equipment can be deducted or depreciated like other business property. Thanks to the Small Business Jobs Act of 2011, there is no longer a requirement to keep strict substantiation records for cell phone usage. Cell phones used 50% or less for business purposes are now subject to the usual seven-year, 200% declining balance depreciation method. Consult with your certified public accountant.

## ADVERTISING

**Because I am a member of the General Assembly, I am often called upon to place ads in trade journals, books or magazines put out by various organizations in my district. Can I deduct the cost of these ads?**

When these ads are paid for by you and are a necessary part of your business in order to maintain relations with your constituency or are used to promote your name (which is necessary for an elected official), their cost may be deducted as a business expense on your tax return (subject to the 2% of adjusted gross income limitation). If these ads appear during a reelection campaign period in which you are involved, it would probably be best to exclude the cost of these ads from your tax-deductible items (because such campaign expenses are not deductible). Ideally, ads appearing during your campaign would be paid for with campaign contributions.

**I buy calendars, pens or similar items containing my contact information to pass out to my constituency. Can I deduct such items?**

Since this is directly related to the business purpose of adequately and properly serving your constituency, you may deduct the cost of these items on your tax return. Keep in mind, however, that expenses incurred during campaign time must be excluded. These expenses are also subject to the 2% of adjusted gross income limitation.

## CAMPAIGN EXPENSES

### **Are my campaign expenses deductible for tax purposes?**

A candidate's campaign expenses out of his or her own resources are not deductible as ordinary business expenses for federal income tax purposes.

The Internal Revenue Code defines a public office as a trade or business. However, it also specifically denies all deductions for expenditures in any political campaign for a candidate for public office. Therefore, regardless of the result of the election, a candidate may not deduct expenses for attending political conventions, campaign travel expenses, campaign advertising, filing fees, legal fees, etc. Neither may campaign expenses be amortized (like a capital expenditure) over the term in office.

Even if you view political office as a stepping-stone to some other business or profession, this is not enough to change the IRS' view on this issue. Thus, if you are a lawyer, political campaign expenses are not deductible if you are seeking election as a legislator in the hope that the exposure will build your professional practice. Even if your professional reputation was damaged during a political campaign, the cost of any defamation litigation for allegations published during the campaign is not deductible.

### **Is interest earned on campaign donations deposited in a savings account taxable? Do I have to file a tax return?**

Form 1120-POL (U.S. Income Tax Return for certain political organizations) must be filed by a "*political organization*" that has any taxable income. The Internal Revenue Code defines a "*political organization*" as a party, committee, association, or other organization (whether or not incorporated) formed and operated primarily for the purpose of accepting contributions and making expenditures on behalf of a political candidate. Therefore, a separate organization, other than the political candidate, established to regulate political campaign funds must report such taxable income on Form 1120-POL.

A political organization must file Form 1120-POL by the 15th day of the third month after the end of the tax year. For calendar year organizations, this would be March 15.

### **Do expense reimbursements from campaign funds need to be included in my gross income for tax purposes?**

Some Ohio legislators have experienced adverse results from audits by the IRS regarding reimbursement of business expenses from campaign funds. The IRS auditors have attempted to require the legislators to include in personal gross income expenses that were paid from campaign funds that were deemed not "*directly related*" to a campaign.

If this happens to you, you may want to review the matter with your CPA to determine whether grounds exist to contest the IRS auditor's interpretation.

## OTHER EXPENSES

### What other expenses can I deduct on my tax return?

There are many other expenses you probably incur as a result of your position as a member of the General Assembly that may be deductible. Some of these expenses are as follows:

1. Stationery and postage related to mail concerning your business as a member of the General Assembly.
2. Any other supplies such as pens, paper clips, pencils, etc. that are necessary to maintain your office and serve your constituency.
3. Dues to certain business-related civic organizations. The membership must be related to your being a state legislator. Examples of deductible civic organization dues include professional organizations (such as bar associations), business leagues, trade associations and chambers of commerce. However, dues in clubs organized for business, pleasure, recreation or other social purpose are not deductible. See the discussion under "Entertainment Facilities" for details of the new rules applying to these "clubs."
4. Newspapers and magazines including the cost of obtaining additional publications because of your position as a state legislator, such as special weekly papers in your district and special publications relating to politics and state government, which are necessary for you to improve yourself as a legislator.
5. The cost of holiday cards to leaders in the community is a form of advertising expense, again directly related to your business as a member of the General Assembly. If you buy special holiday cards and have a mailing to people related to your position, the cost becomes a tax deductible expense which includes the cost of cards, envelopes, postage and photographs (if your family photograph is included in the card).
6. The cost of newsletters sent to constituents.
7. Non-reimbursed travel expenses incurred in making an investigation to ascertain facts which resulted in a legislative proposal and enactment.

As mentioned earlier, all deductible expenses including non-reimbursed travel expenses, meals, lodging, advertising and other miscellaneous expenses will be deductible only to the extent they cumulatively exceed 2% of your adjusted gross income.

## ALTERNATIVE MINIMUM TAX

### I've heard many people talk about the Alternative Minimum Tax, or AMT. What is the AMT and does it affect me?

The AMT is so named since it was designed to insure that alleged high-income taxpayers could not avoid paying the related high income taxes by taking advantage of certain deductions available to them. If your tentative minimum tax is more than your regular tax, that difference is your AMT and you pay that in addition to your regular tax. Now, this begs the next question: what is meant by "TENTATIVE MINIMUM TAX"? Your tentative minimum tax is calculated simply by taking away

certain itemized deductions claimed on Schedule A. The fewer itemized deductions you claim, the higher your taxable income and this, in turn, leads to higher income tax. This higher income tax is your tentative minimum tax.

How does this affect you? Some state legislators claim substantial deductions on Schedule A by way of Form 2106, which has been discussed in other sections of this Guide. The tentative minimum tax calculation disregards these deductions and creates the higher tax as outlined above. As stated above, the AMT is the difference between your tentative minimum tax and your regular tax. The fewer deductions you are allowed, the greater this difference and the greater your income tax becomes. The AMT is calculated on Form 6251. A sample form has been included in this guide for your reference.

## STATE INCOME TAX

### **Are any of the business and campaign related expenses discussed above deductible on my State Income Tax Return?**

Non-reimbursed employee business expenses are not deductible on your Ohio State Income Tax Return. Federal adjusted gross income is the starting point in computing Ohio taxable income. There is no separately stated deduction for Ohio business expenses. Therefore, because your business expenses are deducted as itemized deductions on your Federal Return, they will not be deductible in Ohio.

## MUNICIPAL INCOME TAX

### **Are the above expenses deductible from my income in arriving at taxable income for Municipal Income Tax purposes?**

The rules for municipalities vary widely and compliance can be complex. Some allow a deduction for all expenses; others only allow for amounts deducted on the federal return. One municipality takes the approach that only amounts deducted in computing federal adjusted gross income will be allowed. Please be advised that municipal income tax changes as a result of the enactment of House Bill 5 by the Ohio General Assembly went into effect January 1st, 2016. Included in these changes were updates to withholding filing frequencies and threshold updates to occasional entry exemptions, uniformity of penalty and interest rates as well as estimated tax payment due dates and thresholds. This is not an exhaustive list of changes enacted by House Bill 5 and the bill is quite extensive. Please consult your certified public accountant regarding the policy of the municipality where you file.

### **Since I represent several municipalities as a member of the Legislature, is there any requirement for me to allocate my legislative salary among the various municipalities I represent?**

No, due an exemption in the Ohio Revised Code for state legislators, your legislative salary is to be reported in your resident municipality only and no allocations are allowed to other municipalities that you represent. However, keep in mind that

income unrelated to your role as a state legislator could result in a tax obligation to multiple municipalities if you provide goods or services in more than one location or work in a jurisdiction other than where you reside. Consult your certified public accountant regarding the requirement of the municipality that you represent. You are granted a full or reduced tax credit for taxes paid to another municipality by your individual taxing municipality. The effect of exempting your salary from the Columbus municipal income tax makes all of your municipal income tax payable to your local community and residence rather than to the City of Columbus, therefore, helping your local community and your constituents.

## REFERENCES TO IRS PUBLICATIONS

The following is a listing of IRS publications that may assist you in the preparation of your return. You can get these publications free by calling 800.829.3676. Also, many public libraries have reference sets of these publications that you can use. These publications can be easily accessed from your personal computer via the IRS's Internet web site at <http://www.irs.ustreas.gov>.

- Publication 463 — This publication explains the various rules relating to travel, entertainment, gift and car expenses.
- Publication 587 — This publication explains the deductions available for the business use of your home.
- Publication 1542 — This publication outlines the per diem travel and meal allowances by geographical area. Effective 2012 and later, the IRS moved this publication to the U.S. General Services Administration (GSA) website at <http://www.gsa.gov> and following the "Per Diem Rates" link.

## APPENDIX 1

### Section 162(h) of the Internal Revenue Code

#### (h) State legislators' travel expenses away from home

- (1) **In general.** For purposes of subsection (a), in the case of any individual who is a State legislator at any time during the taxable year and who makes an election under this subsection for the taxable year –
- (A) the place of residence of such individual within the legislative district which he represented shall be considered his home,
  - (B) he shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of such individual during the taxable year by the greater of—
    - (i) the amount generally allowable with respect to such day to employees of the State of which he is a legislator for per diem while away from home, to the extent such amount does not exceed 110 percent of the amount described in clause (ii) with respect to such day, or
    - (ii) the amount generally allowable with respect to such day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States, and

- (C) he shall be deemed to be away from home in the pursuit of a trade or business on each legislative day.
- (2) **Legislative days.** For purposes of paragraph (1), a legislative day during any taxable year for any individual shall be any day during such year on which—
  - (A) the legislature was in session (including any day in which the legislature was not in session for a period of 4 consecutive days or less), or
  - (B) the legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a committee of such legislature.
- (3) **Election.** An election under this subsection for any taxable year shall be made at such time and in such manner as the Secretary shall by regulations prescribe.
- (4) **Section not to apply to legislators who reside near capitol.** For taxable years beginning after December 31, 1980, this subsection shall not apply to any legislator whose place of residence within the legislative district which he represents is 50 or fewer miles from the capitol building of the State.

## APPENDIX 2

### IRS Regulation §1.162-24 Travel Expenses of State Legislators

- (a) **In general.** For purposes of section 162(a), in the case of any taxpayer who is a state legislator at any time during the taxable year and who makes an election under section 162(h) for the taxable year –
  - (1) The taxpayer's place of residence within the legislative district represented by the taxpayer is the taxpayer's home for that taxable year;
  - (2) The taxpayer is deemed to have expended for living expenses (in connection with the taxpayer's trade or business as a legislator) an amount determined by multiplying the number of legislative days of the taxpayer during the taxable year by the greater of—
    - (i) The amount generally allowable with respect to those days to employees of the state of which the taxpayer is a legislator for per diem while away from home, to the extent the amount does not exceed 110 percent of the amount described in paragraph (a)(2)(ii) of this section; or
    - (ii) The Federal per diem with respect to those days for the taxpayer's state capital; and
  - (3) The taxpayer is deemed to be away from home in the pursuit of a trade or business on each legislative day.
- (b) **Legislative day.** For purposes of section 162(h)(1) and this section, for any taxpayer who makes an election under section 162(h), a legislative day is any day on which the taxpayer is a state legislator and—

- (1) The legislature is in session;
  - (2) The legislature is not in session for a period that is not longer than 4 consecutive days, without extension for Saturdays, Sundays, or holidays;
  - (3) The taxpayer's attendance at a meeting of a committee of the legislature is formally recorded; or
  - (4) The taxpayer's attendance at any session of the legislature that only a limited number of members are expected to attend (such as a pro forma session), on any day not described in paragraph (b)(1) or (b)(2) of this section, is formally recorded.
- (c) **Fifty mile rule.** Section 162(h) and this section do not apply to any taxpayer who is a state legislator and whose place of residence within the legislative district represented by the taxpayer is 50 or fewer miles from the capitol building of the state. For purposes of this paragraph (c), the distance between the taxpayer's place of residence within the legislative district represented by the taxpayer and the capitol building of the state is the shortest of the more commonly traveled routes between the two points.
- (d) **Definitions and special rules.** The following definitions apply for purposes of section 162(h) and this section.
- (1) **State legislator.** A taxpayer becomes a state legislator on the day the taxpayer is sworn into office and ceases to be a state legislator on the day following the day on which the taxpayer's term in office ends.
  - (2) **Living expenses.** Living expenses include lodging, meals, and incidental expenses. Incidental expenses has the same meaning as in 41 CFR 300-3.1.
  - (3) **In session—**
    - (i) **In general.** For purposes of this section, the legislature of which a taxpayer is a member is in session on any day if, at any time during that day, the members of the legislature are expected to attend and participate as an assembled body of the legislature.
    - (ii) **Examples.** The following examples illustrate the rules of this paragraph (d)(3): *Example 1.* B is a member of the legislature of State X. On Day 1, the State X legislature is convened and the members of the legislature are expected to attend and participate. On Day 1, the State X legislature is in session within the meaning of paragraph (d)(3)(i) of this section. B does not attend the session of the State X legislature on Day 1. However, Day 1 is a legislative day for B for purposes of section 162(h)(2)(A) and paragraph (b)(1) of this section. *Example 2.* C, D, and E are members of the legislature of State X. On Day 2, the State X legislature is convened for a limited session in which not all members of the legislature

are expected to attend and participate. Thus, on Day 2 the legislature is not in session within the meaning of paragraph (d)(3)(i) of this section, and Day 2 is not a legislative day under paragraph (b)(1) of this section. In addition, Day 2 is not a day described in paragraph (b)(2) of this section. C and D are the only members who are called to, and do, attend the limited session on Day 2, and their attendance at the session is formally recorded. E is not called and does not attend. Therefore, Day 2 is a legislative day as to C and D under section 162(h)(2)(B) and paragraph (b)(4) of this section. Day 2 is not a legislative day as to E.

**(4) Committee of the legislature.** A committee of the legislature is any group that includes one or more legislators and that is charged with conducting business of the legislature. Committees of the legislature include, but are not limited to, committees to which the legislature refers bills for consideration, committees that the legislature has authorized to conduct inquiries into matters of public concern, and committees charged with the internal administration of the legislature. For purposes of this section, groups that are not considered committees of the legislature include, but are not limited to, groups that promote particular issues, raise campaign funds, or are caucuses of members of a political party.

**(5) Federal per diem.** The Federal per diem for any city and day is the maximum amount allowable to employees of the executive branch of the Federal government for living expenses while away from home in pursuit of a trade or business in that city on that day. See 5 U.S.C. 5702 and the regulations under that section.

**(e) Election—**

**(1) Time for making election.** A taxpayer's election under section 162(h) must be made for each taxable year for which the election is to be in effect and must be made no later than the due date (including extensions) of the taxpayer's Federal income tax return for the taxable year.

**(2) Manner of making election.** A taxpayer makes an election under section 162(h) by attaching a statement to the taxpayer's income tax return for the taxable year for which the election is made. The statement must include—

- (i)** The taxpayer's name, address, and taxpayer identification number;
- (ii)** A statement that the taxpayer is making an election under section 162(h); and
- (iii)** Information establishing that the taxpayer is a state legislator entitled to make the election, for example, a statement identifying the taxpayer's state and legislative district and representing that the taxpayer's place of residence in the legislative district is not 50 or fewer miles from the state capitol building.

- (3) **Revocation of election.** An election under section 162(h) may be revoked only with the consent of the Commissioner. An application for consent to revoke an election must be signed by the taxpayer and filed with the submission processing center with which the election was filed, and must include—
- (i) The taxpayer's name, address, and taxpayer identification number;
  - (ii) A statement that the taxpayer is revoking an election under section 162(h) for a specified year; and
  - (iii) A statement explaining why the taxpayer seeks to revoke the election.
- (f) **Effect of election on otherwise deductible expenses for travel away from home—**
- (1) **Legislative days—**
- (i) **Living expenses.** For any legislative day for which an election under section 162(h) and this section is in effect, the amount of an electing taxpayer's living expenses while away from home is the greater of the amount of the living expenses—
    - (A) Specified in paragraph (a)(2) of this section in connection with the trade or business of being a legislator; or
    - (B) Otherwise allowable under section 162(a)(2) in the pursuit of any trade or business of the taxpayer.
  - (ii) **Other expenses.** For any legislative day for which an election under section 162(h) and this section is in effect, the amount of an electing taxpayer's expenses (other than living expenses) for travel away from home is the sum of the substantiated expenses, such as expenses for travel fares, telephone calls, and local transportation, that are otherwise deductible under section 162(a)(2) in the pursuit of any trade or business of the taxpayer.
- (2) **Non-legislative days.** For any day that is not a legislative day, the amount of an electing taxpayer's expenses (including amounts for living expenses) for travel away from home is the sum of the substantiated expenses that are otherwise deductible under section 162(a)(2) in the pursuit of any trade or business of the taxpayer.
- (g) **Cross references.** See § 1.62-1T(e)(4) for rules regarding allocation of unreimbursed expenses of state legislators and section 274(n) for limitations on the amount allowable as a deduction for expenses for or allocable to meals.
- (h) **Effective/applicability date.** This section applies to expenses paid or incurred, or deemed expended under section 162(h), in taxable years beginning after April 8, 2010.

## APPENDIX 3

### State Legislator's Tax Home Annual Election Under Code Sec. 162(h)

NAME

ADDRESS

Identification Number: YOUR SSN NUMBER

Tax Year End: 12/31/2016

I (YOUR NAME), a legislator who served in the OHIO HOUSE OF REPRESENTATIVES during the tax year ending on 12/31/2016, hereby elect under Code Sec. 162(h) to have my residence located within the DISTRICT (XX) legislative district treated as my tax home for the purpose of deducting away-from home business travel expenses. My residence is in the legislative district I represent and is more than 50 miles from the state's capitol building.

**Employee Business Expenses**

Department of the Treasury  
Internal Revenue Service (99)

▶ Attach to Form 1040 or Form 1040NR.

▶ Information about Form 2106 and its separate instructions is available at [www.irs.gov/form2106](http://www.irs.gov/form2106).

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

	Column A Other Than Meals and Entertainment		Column B Meals and Entertainment	
<b>Step 1 Enter Your Expenses</b>				
1 Vehicle expense from line 22 or line 29. (Rural mail carriers: See instructions.) . . . . .	1	9,029	88	
2 Parking fees, tolls, and transportation, including train, bus, etc., that <b>didn't</b> involve overnight travel or commuting to and from work . . . . .	2	235	00	
3 Travel expense while away from home overnight, including lodging, airplane, car rental, etc. <b>Don't</b> include meals and entertainment. . . . .	3	11,500	00	
4 Business expenses not included on lines 1 through 3. <b>Don't</b> include meals and entertainment . . . . .	4	665	00	
5 Meals and entertainment expenses (see instructions) . . . . .				5,750
6 <b>Total expenses.</b> In Column A, add lines 1 through 4 and enter the result. In Column B, enter the amount from line 5 . . . . .	6	21,429.88	32	5,750
				00

**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 <b>weren't</b> 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		9,000	00					0	00
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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		12,429	88					5,750	00
<b>Note:</b> If <b>both columns</b> 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		12,429	88					2,875	00
10 Add the amounts on line 9 of both columns and enter the total here. <b>Also, enter the total on Schedule A (Form 1040), line 21 (or on Schedule A (Form 1040NR), line 7).</b> (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								15,304	88

**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
<b>11</b>	Enter the date the vehicle was placed in service . . . . .	<b>11</b> 01 / 01 / 2014	/ /
<b>12</b>	Total miles the vehicle was driven during 2016 . . . . .	<b>12</b> 22,500 miles	miles
<b>13</b>	Business miles included on line 12 . . . . .	<b>13</b> 16,722 miles	miles
<b>14</b>	Percent of business use. Divide line 13 by line 12 . . . . .	<b>14</b> 74 %	%
<b>15</b>	Average daily roundtrip commuting distance . . . . .	<b>15</b> 15 miles	miles
<b>16</b>	Commuting miles included on line 12 . . . . .	<b>16</b> 1,500 miles	miles
<b>17</b>	Other miles. Add lines 13 and 16 and subtract the total from line 12 . . . . .	<b>17</b> 4,278 miles	miles
<b>18</b>	Was your vehicle available for personal use during off-duty hours? . . . . .	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>19</b>	Do you (or your spouse) have another vehicle available for personal use? . . . . .	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>20</b>	Do you have evidence to support your deduction? . . . . .	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>21</b>	If "Yes," is the evidence written? . . . . .	<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.)

<b>22</b>	Multiply line 13 by 54¢ (0.54). Enter the result here and on line 1 . . . . .	<b>22</b> 9,029 88
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**Section C—Actual Expenses**

		(a) Vehicle 1		(b) Vehicle 2	
<b>23</b>	Gasoline, oil, repairs, vehicle insurance, etc. . . . .	<b>23</b>	4,500 00		
<b>24a</b>	Vehicle rentals . . . . .	<b>24a</b>			
<b>b</b>	Inclusion amount (see instructions) . . . . .	<b>24b</b>			
<b>c</b>	Subtract line 24b from line 24a . . . . .	<b>24c</b>			
<b>25</b>	Value of employer-provided vehicle (applies only if 100% of annual lease value was included on Form W-2—see instructions) . . . . .	<b>25</b>			
<b>26</b>	Add lines 23, 24c, and 25. . . . .	<b>26</b>	4,500 00		
<b>27</b>	Multiply line 26 by the percentage on line 14 . . . . .	<b>27</b>	3,330 00		
<b>28</b>	Depreciation (see instructions) . . . . .	<b>28</b>			
<b>29</b>	Add lines 27 and 28. Enter total here and on line 1 . . . . .	<b>29</b>			

**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	
<b>30</b>	Enter cost or other basis (see instructions) . . . . .	<b>30</b>	30,000 00		
<b>31</b>	Enter section 179 deduction and special allowance (see instructions) . . . . .	<b>31</b>			
<b>32</b>	Multiply line 30 by line 14 (see instructions if you claimed the section 179 deduction or special allowance). . . . .	<b>32</b>	22,200 00		
<b>33</b>	Enter depreciation method and percentage (see instructions) . . . . .	<b>33</b>	200DB%		
<b>34</b>	Multiply line 32 by the percentage on line 33 (see instructions) . . . . .	<b>34</b>	4,440 00		
<b>35</b>	Add lines 31 and 34 . . . . .	<b>35</b>	4,440 00		
<b>36</b>	Enter the applicable limit explained in the line 36 instructions . . . . .	<b>36</b>	3,160 00		
<b>37</b>	Multiply line 36 by the percentage on line 14 . . . . .	<b>37</b>	2,338 40		
<b>38</b>	Enter the <b>smaller</b> 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 . . . . .	<b>38</b>	2,338 40		

**SCHEDULE A  
(Form 1040)**

**Itemized Deductions**

OMB No. 1545-0074

**2016**  
Attachment  
Sequence No. **07**

Department of the Treasury  
Internal Revenue Service (99)

► **Information about Schedule A and its separate instructions is at [www.irs.gov/schedulea](http://www.irs.gov/schedulea).**  
► **Attach to Form 1040.**

Name(s) shown on Form 1040

Your social security number

<b>Medical and Dental Expenses</b>		<b>Caution:</b> Do not include expenses reimbursed or paid by others.				
1	Medical and dental expenses (see instructions)	1	2,500	00		
2	Enter amount from Form 1040, line 38	2	75,000	00		
3	Multiply line 2 by 10% (0.10). But if either you or your spouse was born before January 2, 1952, multiply line 2 by 7.5% (0.075) instead	3	5,625	00		
4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-	4			0	00
<b>Taxes You Paid</b>		<b>5 State and local (check only one box):</b>				
a	<input checked="" type="checkbox"/> Income taxes, or	5	3,750	00		
b	<input type="checkbox"/> General sales taxes					
6	Real estate taxes (see instructions)	6	4,200	00		
7	Personal property taxes	7				
8	Other taxes. List type and amount ►	8				
9	Add lines 5 through 8	9			7,950	00
<b>Interest You Paid</b>		<b>10 Home mortgage interest and points reported to you on Form 1098</b>				
		10	7,350	00		
<b>Note:</b> Your mortgage interest deduction may be limited (see instructions).		<b>11 Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see instructions and show that person's name, identifying no., and address ►</b>				
		11				
		12				
		13				
		14				
		15			7,350	00
<b>Gifts to Charity</b>		<b>16 Gifts by cash or check. If you made any gift of \$250 or more, see instructions.</b>				
		16	4,500	00		
<b>If you made a gift and got a benefit for it, see instructions.</b>		<b>17 Other than by cash or check. If any gift of \$250 or more, see instructions. You must attach Form 8283 if over \$500</b>				
		17	450	00		
		18				
		19			4,950	00
<b>Casualty and Theft Losses</b>		<b>20 Casualty or theft loss(es). Attach Form 4684. (See instructions.)</b>				
<b>Job Expenses and Certain Miscellaneous Deductions</b>		<b>21 Unreimbursed employee expenses—job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required. (See instructions.) ►</b>				
		21	15,304	88		
		22	375	00		
		23				
		24	15,679	88		
		25	75,000	00		
		26	1,500	00		
		27			14,179	88
<b>Other Miscellaneous Deductions</b>		<b>28 Other—from list in instructions. List type and amount ►</b>				
		28				
<b>Total Itemized Deductions</b>		<b>29 Is Form 1040, line 38, over \$155,650?</b>				
		<input type="checkbox"/> <b>No.</b> Your deduction is not limited. Add the amounts in the far right column for lines 4 through 28. Also, enter this amount on Form 1040, line 40.		}	29	34,429 88
		<input type="checkbox"/> <b>Yes.</b> Your deduction may be limited. See the Itemized Deductions Worksheet in the instructions to figure the amount to enter.				
		<b>30 If you elect to itemize deductions even though they are less than your standard deduction, check here</b>				

Name(s) shown on Form 1040 or Form 1040NR

Your social security number

**Part I Alternative Minimum Taxable Income** (See instructions for how to complete each line.)

1	If filing Schedule A (Form 1040), enter the amount from Form 1040, line 41, and go to line 2. Otherwise, enter the amount from Form 1040, line 38, and go to line 7. (If less than zero, enter as a negative amount.)	1	40,319	00
2	Medical and dental. If you or your spouse was 65 or older, enter the <b>smaller</b> of Schedule A (Form 1040), line 4, or 2.5% (0.025) of Form 1040, line 38. If zero or less, enter -0-	2	0	00
3	Taxes from Schedule A (Form 1040), line 9	3	7,950	00
4	Enter the home mortgage interest adjustment, if any, from line 6 of the worksheet in the instructions for this line	4		
5	Miscellaneous deductions from Schedule A (Form 1040), line 27.	5	14,179	88
6	If Form 1040, line 38, is \$155,650 or less, enter -0-. Otherwise, see instructions	6	( )	
7	Tax refund from Form 1040, line 10 or line 21	7	( )	
8	Investment interest expense (difference between regular tax and AMT).	8		
9	Depletion (difference between regular tax and AMT)	9		
10	Net operating loss deduction from Form 1040, line 21. Enter as a positive amount	10		
11	Alternative tax net operating loss deduction	11	( )	
12	Interest from specified private activity bonds exempt from the regular tax	12		
13	Qualified small business stock, see instructions	13		
14	Exercise of incentive stock options (excess of AMT income over regular tax income)	14		
15	Estates and trusts (amount from Schedule K-1 (Form 1041), box 12, code A)	15		
16	Electing large partnerships (amount from Schedule K-1 (Form 1065-B), box 6)	16		
17	Disposition of property (difference between AMT and regular tax gain or loss)	17		
18	Depreciation on assets placed in service after 1986 (difference between regular tax and AMT)	18		
19	Passive activities (difference between AMT and regular tax income or loss)	19		
20	Loss limitations (difference between AMT and regular tax income or loss)	20		
21	Circulation costs (difference between regular tax and AMT)	21		
22	Long-term contracts (difference between AMT and regular tax income)	22		
23	Mining costs (difference between regular tax and AMT)	23		
24	Research and experimental costs (difference between regular tax and AMT)	24		
25	Income from certain installment sales before January 1, 1987	25	( )	
26	Intangible drilling costs preference	26		
27	Other adjustments, including income-based related adjustments	27		
28	<b>Alternative minimum taxable income.</b> Combine lines 1 through 27. (If married filing separately and line 28 is more than \$247,450, see instructions.)	28	62,448	88

**Part II Alternative Minimum Tax (AMT)**

29	Exemption. (If you were under age 24 at the end of 2016, see instructions.) <b>IF your filing status is . . . AND line 28 is not over . . . THEN enter on line 29 . . .</b> Single or head of household . . . \$119,700 . . . \$53,900 Married filing jointly or qualifying widow(er) 159,700 . . . 83,800 Married filing separately . . . 79,850 . . . 41,900 If line 28 is <b>over</b> the amount shown above for your filing status, see instructions.	29	83,800	00
30	Subtract line 29 from line 28. If more than zero, go to line 31. If zero or less, enter -0- here and on lines 31, 33, and 35, and go to line 34	30	0	
31	• If you are filing Form 2555 or 2555-EZ, see instructions for the amount to enter. • If you reported capital gain distributions directly on Form 1040, line 13; you reported qualified dividends on Form 1040, line 9b; or you had a gain on both lines 15 and 16 of Schedule D (Form 1040) (as refigured for the AMT, if necessary), complete Part III on the back and enter the amount from line 64 here. • <b>All others:</b> If line 30 is \$186,300 or less (\$93,150 or less if married filing separately), multiply line 30 by 26% (0.26). Otherwise, multiply line 30 by 28% (0.28) and subtract \$3,726 (\$1,863 if married filing separately) from the result.	31	0	
32	Alternative minimum tax foreign tax credit (see instructions)	32		
33	Tentative minimum tax. Subtract line 32 from line 31	33	0	
34	Add Form 1040, line 44 (minus any tax from Form 4972), and Form 1040, line 46. Subtract from the result any foreign tax credit from Form 1040, line 48. If you used Schedule J to figure your tax on Form 1040, line 44, refigure that tax without using Schedule J before completing this line (see instructions)	34		
35	<b>AMT.</b> Subtract line 34 from line 33. If zero or less, enter -0-. Enter here and on Form 1040, line 45	35	0	