

# **Tax Guide for Iowa Legislators**

For use in preparation of 2008 individual tax returns

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The following forms can be downloaded from the Internal Revenue Service Web site at:  
[www.irs.gov/formspubs/index.html](http://www.irs.gov/formspubs/index.html).

Form 2106 – Employee Business Expenses (*fill-in form*)  
Form 2106 – Instructions

Form 4562 – Depreciation and Amortization (*fill-in form*)  
Form 4562 – Instructions

Form 8829 – Expenses for Business Use of Your Home (*fill-in form*)  
Form 8829 – Instructions

Form 1120-POL and Instructions – US Income Tax Return for Certain Political Organizations

Form 8871 – Political Organization Notice of Section 527 Stats (*fill-in form*)  
Form 8871 – Instructions

Form 8872 – Political Organization Report of Contributions and Expenditures (*fill-in form*)  
Form 8872 – Instructions

Sample Legislator's Business Log

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## Introduction

### January 2009

More than 4,500 members of the Iowa Society of Certified Public Accountants (ISCPA) provide advice on a wide variety of economic, business, and financial issues. Please don't hesitate to use the Iowa Society as a resource for any business issues that may concern you or your constituents.

To assist you during the current tax season, the Iowa Society of CPAs has prepared the **Tax Guide for Iowa Legislators**. This guide answers some frequently asked questions about income tax laws that specifically affect you as a member of the Iowa General Assembly. As you know, tax laws change periodically, and court decisions and Internal Revenue Service (IRS) rulings further complicate the picture. Therefore, material in this guide should be considered current for the 2008 tax year only.

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, property taxes, interest, and charitable contributions, or tax matters unrelated to your position as an elected official are not covered. Please reference the *2008 Tax Tips* brochure prepared by the Iowa Society of CPAs for use in preparation of your individual income tax returns.

If you have additional questions, or if you need assistance in preparing your income tax return, we suggest you contact your certified public accountant. If you don't have a CPA, please access our online referral service *Find a CPA* at [www.iacpa.org](http://www.iacpa.org).

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## How to Choose and Use a CPA

Starting a small business? Upgrading your computer system? Developing an estate plan or trying to reduce next year's taxes? A certified public accountant (CPA) can help. But, according to the Iowa Society of CPAs, how much a CPA can help depends on your ability to find the right one and clearly communicate your own goals and objectives.

Business owners and managers of various for-profit and not-for-profit organizations turn to CPAs for a wide range of services – from traditional auditing to advice on developing effective accounting systems, maximizing operations, and resolving management problems. Individuals increasingly rely on CPAs not only for preparing taxes, but also for personal financial planning, such as building college funds, planning for retirement, and creating estate plans. Whatever your reason for needing a CPA's services, referrals from friends, neighbors, and co-workers are one of the best ways of locating a CPA. Business people in your field as well as lawyers or bankers can be especially helpful. You also can seek out leads at meetings of the chamber of commerce, local small business associations, or the professional associations to which you belong. In addition, you can access the online referral service *Find a CPA* offered on the Iowa Society Web site at [www.iacpa.org/](http://www.iacpa.org/).

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## General Information

Basic to the determination of the deductibility of certain traveling expenses while away from home is the determination of what is considered "home" for tax purposes. "Home" as used by the IRS is not necessarily synonymous with domicile or residence. A taxpayer's "tax home" has to be considered in light of all facts and circumstances relative to a particular taxpayer. If, for example, your duties as a state legislator require your presence in Des Moines most of the year or your income as a legislator is your main source of income, Des Moines, as your

principal place of employment, would probably be determined to be your "home" for travel expense purposes. The result of such determination is that your living expenses while in Des Moines would not be deductible. However, you may be able to deduct traveling expenses incurred on overnight business trips to the area that you represent, even though that is where you maintain your family residence.

Certain state legislators may elect to be deemed away from home in the pursuit of a trade or business on any day that the Legislature is in session (including periods of up to four consecutive days when the Legislature is not in session) or on any day when the Legislature is not in session but the legislator's presence is formally recorded at a committee meeting. This election is only available to those legislators whose place of residence is more than 50 miles from the state capitol. State legislators who reside in or near the Des Moines area cannot deduct their commuting expenses.

The Internal Revenue Service and the U.S. Treasury have issued [Proposed Regulations 1.162-24](#) to clarify the amount of travel expenses that can be deducted by state legislators who make the Section 162(h) election to treat their residence within the district as their home for business purposes. The regulations are proposed to apply to expenses deemed expended under section 162(h) after the date the regulations are published as final regulations in the Federal Register. In the interim, Revenue Ruling 82-33 is still in effect.

The answers in this guide (except for the first answer in the [Automobile and Travel Expenses](#) section) assume that the income earned or the amount of time spent by the legislator in Des Moines in relation to the income earned or time spent in another city, town, residence, or other business does not result in Des Moines being classified as the legislator's "tax home." Thus, the answers will not apply to legislators who normally reside and work in the general vicinity of Des Moines, including those whose "tax home" is Des Moines.

For Iowa tax purposes, the statutes provide that a legislator's residence within the legislative district will be considered to be your "tax home."

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## Recordkeeping

### 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. Although a contemporaneous log is not required, making entries in a log at the time the expense is incurred has a higher degree of credibility than a statement prepared later. See [Factors to Be Provided in Substantiating Elements](#).*

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 50.5 cents per mile effective January 1, 2008 – June 30, 2008 and 58.5 cents per mile effective July 1, 2008 – December 31, 2008.
- 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 the travel.

Directly related entertainment expenses (those with an expectation of a business benefit) should be recorded as follows:

- 1. Amount.** Amount of each separate expenditure for entertainment, except incidental items such as taxi fares or telephone calls, which 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 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” (e.g. entertainment preceded or followed by a same day business discussion)

or the active conduct of your trade or business, you must also record:

- a. The date and duration of the business discussion that 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 include any property you own, rent, or use for entertainment. 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.

If the facilities are used for entertainment, then no business deductions are allowed. However, you may be able to deduct the cost of entertainment activities that take place at the facility. For example, if you own a swimming pool, you may not deduct the cost of maintaining the pool. However, you may deduct the cost of meals and beverages served to business associates at the pool provided these expenditures relate to qualifying business activities (subject to limitations discussed in the Business Meals and Entertainment Expenses section of this guide).

The *Internal Revenue Code* has barred deductions for amounts paid or incurred after 1993 for membership in any club organized for business, pleasure, recreation, or other purpose. The IRS has defined the term “club” for purposes of this rule. Clubs organized for business, pleasure, recreation, or other social purposes include any membership organization if a principal purpose of the organization is to conduct entertainment activities for the members of the organization or their guests with access to entertainment facilities. Clubs organized for business, pleasure, etc., include, 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.

The following organizations would not be treated as “clubs” under this rule, in the absence of showing that a principal purpose of the organization is to conduct entertainment activities for members or their guests: 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, and Rotary).

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 lunch club are not deductible, 50% of qualifying meal expenses may be deducted.

Keep records that document all of the elements of each expenditure for each business use. In addition, records must include appropriate entries describing the use, cost, date, number of persons entertained, nature of entertainment, and business relationship, as discussed earlier.

The rules relating to the deduction of entertainment facility expenses are very complex. The documentation requirements are rigid and must be strictly followed. 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 (up to \$25), including a description.
2. The date the gift was made.
3. The business reason for or the benefit derived from 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 it is apparent that you are not attempting to avoid the \$25 limitation. Thus, 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 to the theater 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, 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 for vehicles, taxi fares, and telephone calls.

The substantiation of the elements discussed above should be recorded as it occurs in an account book, diary, statement of expense, or similar record and supported by adequate documentary evidence. A record prepared later has little, if any, credibility. 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 that 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 other related expenses in excess of \$75. Documentary evidence supporting an expenditure for transportation in excess of \$75 will not be required if it is not readily available. Such expenses can be easily authenticated by fare schedules and by mileage rates.

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 separate charges for lodging, meals, telephone calls, 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 by itself will not support a deduction without other evidence (i.e., payee's bill) demonstrating the business purpose.

**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 in which the deduction is claimed. If there has been a substantial (25 % or more) understatement of gross income, the statute of limitations is six years. Also, there is no statute of limitations in cases of fraud, or if no return is filed.

<b>FACTORS TO BE PROVIDED IN SUBSTANTIATING ELEMENTS</b>			
<b>Elements to be substantiated</b>	<b>Travel away from home</b>	<b>Entertainment</b>	<b>Gifts</b>
<b>Amount</b>	Amount of each separate expenditure incurred while traveling away from home, such as cost of transportation or lodging.	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.	Cost of gift.
<b>Date</b>	Dates of departure and return for each trip away from home, and number of days away from home spent on business.	Date of entertainment	Date of gift.
<b>Place</b>	Destination or locality of travel, identified by the name of the city or town or other similar designation.	Name, address or location, and identification of the type of entertainment, such as dinner or theater, if such information is not otherwise apparent.	Not applicable.
<b>Description</b>	Not applicable.	Not applicable.	Description of gift.
<b>Business Purpose</b>	Business reason for travel and/or the nature of the business benefit derived or expected to be derived as a result of travel.	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.	Business reason for making gift or nature of business benefit derived or expected to be derived.
<b>Business Relationship</b>	Not applicable.	Occupation or other information – such as names or other designations – about persons entertained that establishes their business relationship to taxpayer. (Identification of persons entertained who participated in business discussion.)	Occupation or other information such as name or other designation – related to receipt, which establishes business relationship to taxpayer.

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## **Business Meals and Entertainment Expenses**

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

*The deduction of 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, a 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 expenses 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 and substantial 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 are associated with the active conduct of business.

Because you are considered an employee of the State of Iowa, the non-reimbursed business meals and entertainment expenses you claim must be listed in the appropriate section of Form 2106. Once the expenses are listed and properly tabulated, the total allowable employee business expenses on Form 2106 are carried over to Schedule A and included in the miscellaneous itemized deductions section. Then, your miscellaneous deductions are deductible to the extent they exceed 2% of your adjusted gross income (AGI).\*

\* (Note that certain high income taxpayers may also be subject to a 3% limit of their AGI, but this guide will normally refer to the more common 2% limit.)

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

Yes, subject to the 50% limitation discussed above. For example, assume a meal 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 an expense diary as to who, where, when, and how much. Also, receipts are required to document the cost of any meeting exceeding \$75 in total cost.

**What costs are included as entertainment and meal expenses?**

Tips, taxes, parking, and cover charges for admission and banquet room rent are all considered part of the entertainment and meals expense. Only the face value of a ticket for entertainment is considered in determining the amount of allowable entertainment expenses. Transportation to and from the event is not subject to the 50% rule.

**While in Des Moines on certain special occasions, I will host a gathering of fellow legislators and other individuals connected with the Legislature. May I deduct the expense of this gathering as a business expense?**

If the gathering can be shown to have a business purpose, then it would qualify as a business deduction. You should maintain adequate records with documentary support and indicate the business purpose and the people in attendance. However, the 50% limitation as to meals and entertainment will, apply.

**On traditional holidays, or at the end of the session, if fellow legislators and I take clerical staff who have worked long hours during the session out to dinner, or if we buy them small gifts, would this be a deductible expense?**

Expenses that are ordinary and necessary to the conduct of your business are deductible. Generally, the expenses in question would qualify under these criteria. Business gifts are limited to \$25 per donee per year.

**Under 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 you claim 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).

### **Are there any exceptions to the 50% reduction?**

There are several, but the three most likely to affect you are:

1. If an employee receives reimbursement for an entertainment or meal expense, then the 50% limitation rule falls on the employer or person making the reimbursement.
2. The price of tickets to certain charitable sports events. This is for an event organized by a tax-exempt charity using volunteer help and where 100% of the net proceeds go to the charitable organization.
3. Expenses for entertainment and meals you make available to the general public as a means of advertising or goodwill.

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## **Living Expenses**

### **May I deduct a standard amount for meals and lodging when I am in Des Moines?**

Normally, as indicated above, the only amount you may deduct for the cost of meals and lodging while in Des Moines is the actual out-of-pocket expense that you incur and for which you are not reimbursed. However, provided your tax home is more than 50 miles from the state capitol, you may report your actual out-of-pocket expenses, or you may use the greater of the federal per diem for the Des Moines area or the state per diem as long as it does not exceed 110% of the federal per diem. The federal per diem rate for Des Moines using the CONUS table method, starting October 1, 2007, thru September 30, 2008 is \$124 per day (\$80 lodging allowance and \$44 meals and incidentals). The rate changed for October 1, 2008 to September 30, 2009 to \$130 per day (\$86 lodging and \$44 meals and incidentals), however taxpayers may continue to use the CONUS rates in effect for the first nine months of 2008, for all the 2008 calendar year in lieu of the updated U.S. General Services Administration (GSA) rates. The meals and incidentals breakdown is \$8 for breakfast, \$12 for lunch, \$21 for dinner, and \$3 for incidentals. For the first and last day you can use \$33 for meals and incidentals. You may be able to use the high-low method instead of the CONUS table method. We suggest that you consult your certified public accountant on which method to choose.

You are required to report on your income tax return any excess of reimbursements over deductible expenses incurred. In order to comply with IRS regulations, you should maintain adequate records with sufficient documentary support to establish the taxable amount or to claim a deduction for the excess of expenses over the reimbursement.

The Iowa per diem reimbursement is currently set at the federal rate of \$124 (first nine months) and \$130 (last 3 months). If the Iowa per diem was not set to federal rate, then IRS announcement 87-23 or IRS Regulation Section 1.62-1T(e)(4) applies to state legislators where the federal per diem allowance for travel expenses away from home is in excess of the actual reimbursement amount received. In this situation, any excess per diem allowance over the amount actually reimbursed to the legislator must 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 for travel in the United States. Fifty percent of the amount of such excess allocated to meals is not deductible. The remaining excess per diem is deductible as an employee business expense. For this allocation, you must also reduce the meals per diem by \$3 per day for the incidental portion. Therefore the meals portions would be  $(\$44-\$3)/\$124$ , which equals 33.06%. For example, if the current Iowa per diem reimbursement is \$100 per day and the current federal per diem reimbursement per CONUS for Des Moines is \$124 per day, then \$83 or 66.94% represents the lodging and incidental allowance and \$41 or 33.06% represents the meals allowance. Therefore the application of the 50% limitation on meals requires \$24 (the excess of \$124 over \$100) to be allocated between meals and other travel expenses and, 33.06% of \$24, or \$7.94, would be allocated to meals and 50% of \$7.94, or \$3.97, would not be deductible. The remaining \$16.06 would be fully deductible on Form 2106 as travel expense. There is no allocation for the days you do not receive reimbursement. So if you were in Des Moines for 125 days and reimbursements were only allowed for 110 days, then 15 days of travel would be fully reported as an expense and 50% of all meals.

**What may I deduct for Iowa income tax purposes for living expenses incurred while attending sessions in Des Moines?**

*As described above, you are allowed to deduct your actual living expenses incurred while attending sessions in Des Moines. As an alternative, you may claim the same standard amount for meals and lodging as allowed for federal income tax purposes if your tax home is more than fifty (50) miles from the state capitol. For Iowa income tax purposes, only legislators whose personal residences are fifty (50) miles or less from the state capitol may claim a deduction for meals and lodging of \$50 per legislative day.*

**What may I deduct for federal tax purposes for living expenses incurred in a hotel, motel, or apartment while attending sessions in Des Moines?**

*You are allowed to deduct the actual rental payments, including any taxes, service charges, utilities, etc., that you may incur. If facilities are shared with others, you may deduct your share of these expenses. This is the case even though the facility is not used during a part of the month (year) as long as it is maintained in order to fulfill your duties as a member of the Legislature.*

*Other deductible expenses include lodging and 50% of the cost of meals and snacks while in Des Moines overnight. If you prepare your own meals, 50% of the cost of groceries, etc., is deductible. Incidental expenses, such as laundry and cleaning, are also 50% deductible. Again, adequate records with documented support are required to be maintained (see questions in the Recordkeeping section).*

**May I use a standard amount for meals only?**

*No. Although the U.S. Treasury regulations allow a standard deduction for meals, one of the requirements for its use is separate reimbursement for meals. The state reimburses you on a per diem basis, i.e., a lump sum for more than just meals.*

**I am in Des Moines for long periods of time. Occasionally, I find it necessary and desirable to have my spouse (and/or children) visit me. May I deduct the cost of their travel to Des Moines, hotel costs, and cost of their meals?**

*No. You may deduct these costs only if your spouse and/or children are your employees and their presence served a bona fide business purpose. This same rule applies if your spouse accompanies you on any business trip.*

**My principal employment is that of being a state legislator. I have no other substantial source of income and I reside in Des Moines a significant portion of the year. I represent a district 150 miles removed from Des Moines and maintain my personal family residence there. The time I devote to my employment as a legislator while living at home is considerable, but less than the time I spend working in Des Moines. What expenses may I deduct?**

*The IRS could consider your tax home to be Des Moines if you so elected. As previously discussed, the Economic Recovery Tax Act of 1981 allows you to consider the district that you represent as your tax home. Therefore, the normal deductions (discussed elsewhere) are available.*

*You may check with the Legislative Services Agency for additional information regarding this issue.*

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**Automobile and Travel Expenses**

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

*You are considered an employee of the State of Iowa. All mileage expenses or automobile expenses are reported on **Form 2106, Employee Business Expenses**. Form 2106 will assist you in understanding how to properly report your tax-deductible information on your annual federal income tax return. All unreimbursed automobile expenses flow through to*

Schedule A and are deductible if you itemize and if the automobile expenses and certain other miscellaneous itemized deductions exceed 2% of your adjusted gross income (AGI).<sup>\*</sup> The portion of automobile expenses that was reimbursed is fully deductible when the corresponding reimbursement is reported as income on your W-2.

<sup>\*</sup> (Note that certain high income taxpayers may also be subject to a 3% limit of their AGI, but this guide will normally refer to the more common 2% limit.)

### **How much may I deduct for the automobile mileage I incur traveling to and from Des Moines?**

The state pays each legislator certain specified allowances for expenses. To comply with the IRS 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 expenses over allowances is deductible on Schedule A subject to the 2% of AGI limit (if you itemize).

Your deduction for automobile expenses may be either in the form of the federal standard mileage rate: 50.5 cents per mile for the period January 1, 2008 to June 30, 2008, and 58.5 cents per mile effective July 1, 2008 thru December 31, 2008, or you may itemize your actual automobile expenses. To itemize, total the automobile expenses (depreciation, gas, repairs, insurance, tires, license plates, etc.) and apply your business percentage. The business percentage is computed by dividing your total business miles by total miles driven during the year. The business portion of parking fees and tolls may be deducted in addition to the standard mileage rate or in addition to the itemized automobile expenses (See **Form 2106**, Part II.)

### **What other mileage expenses may I deduct?**

A member of the Legislature usually incurs a great deal of mileage expense. 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 should be recorded. This mileage may 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 your legislative duties. You may be able to deduct the cost of non-reimbursed transportation between two places of business (state capitol or another business or occupation) provided such trips are necessary to discharging business at both locations. In addition, mileage costs incurred in making an investigation to ascertain facts concerning possible legislation are deductible.

### **The IRS allows me to deduct a standard mileage allowance or 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?**

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.

### **What are the current luxury automobile depreciation limits?**

See **Form 4562** and instructions for these limits and other information.

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

See instructions to Part II of **Form 2106** for a listing of automobile expenses.

### **Are there expenses I may deduct for the use of my automobile in addition to the standard mileage allowance?**

Yes. Parking fees and tolls. The non-business portion of the property tax included as part of the annual license plate fee is deductible as property taxes on Schedule A.

**If I use a percentage my actual automobile expenses one year, may I use the standard mileage allowance the following year?**

*Yes, but only if you depreciated your automobile using the straight-line method to determine your depreciation deduction. If you use an accelerated method of depreciation, you cannot convert to the standard mileage allowance for the business use of that automobile.*

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

*The Internal Revenue Code specifically states that campaign expenses are not tax deductible. Because of this, it is very important for the legislator to distinguish between those expenses that are directly related to a campaign for reelection and those expenses that may be directly attributable to serving the legislator's constituency. (See questions in the Campaign Contributions and Expenditures section.)*

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

*You cannot claim both the mileage you would have incurred had you driven an automobile to Des Moines and the cost of bus fare or an airplane ticket. If you use a bus, airplane, or other means of transportation to get to Des Moines, these expenses should be detailed on **Form 2106**. You would also report the amount of reimbursement you received for travel on **Form 2106**. The expenses incurred in excess of your reimbursement amount will flow through to Schedule A or the reimbursement amount in excess of such expense will be taxable income.*

**On occasion, I ride with another legislator to Des Moines. 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 incur any transportation expense yourself, you cannot claim any mileage expense for that day's travel.*

**While away from home, staying in Des Moines for the legislative session at a hotel, etc., I am required to drive or take a taxi to the state capitol each day. May I deduct this as a business expense?**

*Yes. Since Des Moines is not considered your tax home, business transportation between your hotel and the capitol, etc., is not considered commuting. Consequently, you may deduct this transportation expense.*

**I received a traffic violation ticket because I was rushing to get to Des Moines to be on time for a session or a committee meeting. Is the fine a tax-deductible expense?**

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

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

*No. The mileage from residence to place of business is not deductible; this is considered a nondeductible commuting expense.*

**The State of Iowa pays me certain allowances for travel and other expenses. Do I have to report these allowances as income?**

*The allowances, which are intended to reimburse you for certain expenses incurred as a state legislator, must be included in your income. However, you may deduct your travel expenses while away from home, including transportation (**Form 2106**), and other ordinary and necessary business expenses, including 50% of the expenses for business meals and entertainment incurred during the year (**Form 2106**). Allowances and reimbursements that are not reported to you on Form W-2, box 1, or are reported on Form W-2, box 12, under code "L" are reported on **Form 2106** and reduce the expenses you may deduct. Allowances reported as income on your Form W-2, box 1, should not also be included on **Form 2106** as a reimbursement.*

Polk County legislators are reimbursed \$93.00 (October 1, 2007-September 30, 2008) and \$97.50 (October 1, 2008-September 30, 2009) per day [75% of federal rate] for 2008. Because this rate is higher than the \$44 federal meals and incidental allowance, it is very important to document your actual expenses and report them correctly on form 2106. Any reimbursements over your costs are considered taxable income.

**Since I receive expense allowances from the State of Iowa, would it be better to disregard the allowances entirely and assume that they are completely offset by expenses and, therefore, not report anything?**

*In order to comply with IRS regulations, you should include these allowances in your income and deduct related expenses. If your allowances exceed your actual expenses, the excess reimbursement should be included in your taxable income. If your expenses exceed your allowances, you may have a deduction when determining your taxable income.*

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## Office Expenses

**Under what circumstances may I claim expenses of my home as a business expense?**

*A home office qualifies as the "principal place of business" if (1) the taxpayer uses the office to conduct administrative or management activities of a trade or business and (2) there is no other fixed location of trade or business where the taxpayer conducts substantial administrative or management activities of the trade or business. Also the taxpayer must use the office exclusively on a regular basis as a place of business and, in the case of an employee, only if such exclusive use is for the employer's convenience. Consult your certified public accountant to see if these changes may affect your income tax or recordkeeping requirements.*

**May I deduct salary paid for administrative and clerical assistance?**

*Yes. Salary paid in connection with your business is a deductible expense. If you hire someone, such as a full or part-time secretary, to assist you in legislative matters and handling constituent questions and complaints, the compensation paid is deductible. If you pay salaries, you must obtain federal and Iowa identification numbers and report and pay payroll taxes. For details on the proper accounting and tax reporting of payrolls, you may wish to consult your certified public accountant.*

**There is a legislative assistant in my district to whom I pay a token amount each month. Am I required to file payroll tax returns and withhold payroll taxes?**

*In most situations, all amounts paid for services are subject to the payroll tax laws. However, there are some exceptions, such as in the case of an independent contractor. Since each situation is decided on its particular facts and circumstances, you may wish to consult your certified public accountant to evaluate this situation for you.*

**I maintain a rented office in my district for the purpose of serving my constituency. What expenses may I deduct for the cost of maintaining this office?**

*If the office is being used exclusively for legislative purposes, all expenses related to this office—rent, utilities, depreciation on improvements and equipment, etc.—are deductible. However, expenses incurred when you are campaigning 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 expenses are not deductible.*

**What other expenses may I deduct on my tax return?**

*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 include civic and political organizations. Dues to organizations of which you were a member before being elected to public office may be deductible if business related.
3. Publications, including books, newspapers, and magazines, which you purchased to assist you in your work as a legislator. Expenses of this nature incurred for personal reasons are not deductible.
4. Cost of holiday cards for people with whom you have a business relationship.
5. Cost of newsletters sent to constituents. (See Newsletter Fund section for the treatment of a separate newsletter fund.)
6. Fees paid to certified public accountants and others for services relating to business and income taxes.

**Is there a limit on the amount of business expenses one can deduct?**

Yes, the category of miscellaneous itemized deductions, which includes other expenses discussed above, will be deductible only to the extent it exceeds 2% of adjusted gross income.

## **Campaign Contributions and Expenditures**

**Are campaign receipts and expenditures subject to IRS review?**

Yes. The IRS has ruled that campaign contributions and political gifts used solely for the expense of an election campaign or similar purpose are not taxable income to the candidate but must be reported. Any contributions that are used for personal purposes must be included in the candidate's taxable gross income.

**Is it permissible to commingle political funds with personal funds?**

No. 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.

**How do I account for proceeds derived from fund-raising or testimonial dinners?**

The accounting and reporting for dinner proceeds are the same as for campaign contributions.

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

Yes. The fair market value on the date of the contribution should be acknowledged as the amount of the contribution.

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

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.

**What types of expenditures may be paid from campaign contributions?**

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 during a current campaign, or, if not currently campaigning, during the last previous campaign.

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

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

**In what other ways may unexpended balances of political funds be disposed without being taxable to the candidate?**

*Unexpended balances of political funds may be contributed to or for the use of another political organization, transferred to the general fund of the U.S. Treasury or of any state or local government, or transferred to or for the use of an exempt public charity, without being considered to be expended or diverted and, therefore, are not taxable to the candidate.*

**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?**

*Such an entity is considered an association, which is taxable as a corporation, and **Form 1120-POL** must be filed annually if the entity has taxable income after taking the \$100 specific deduction for any taxable year. The return is due on or before the 15th day of the third month after the end of the taxable year. For further information see IRS Fact Sheet FS-2002-13 at [www.irs.gov/newsroom/article/0,,id=103480,00.html](http://www.irs.gov/newsroom/article/0,,id=103480,00.html).*

**What items would be reported and taxable on the 1120-POL?**

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

**What accounting records are required for political funds?**

*Detailed substantiating 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 your individual return, whereas campaign expenses would be nondeductible.*

**What is the tax rule regarding presumption against unrestricted gifts?**

*The IRS will presume, in the absence of evidence to the contrary, that contributions to a political candidate are political funds that are not intended for your unrestricted personal use. If, in fact, the funds were intended for the unrestricted personal use by you as a political candidate, you must be able to substantiate this claim.*

**What reporting requirements are there for a political committee, organization, association, or fund formed for the purpose of managing campaign contributions and expenses of a candidate?**

*The IRS has revised reporting requirements for Internal Revenue Code Section 527 Political Organizations that exempt many state and local political organizations from filing certain forms. The new law changes filing requirements for political organizations that have tax-exempt status under Section 527 of the Code. It also makes changes retroactive to July 1, 2000, when reporting requirements became mandatory.*

*Changes include:*

- 1. Exempts state and local candidates and party committees from filing **Form 8871** and **Form 990** (or 990-EZ).*
- 2. Exempts qualified state and local political organizations (QSLPOs) from filing **Form 8872**.*
- 3. Exempts political committees from filing **Form 990** (or 990-EZ) with the Federal Election Commission (FEC.)*
- 4. Exempts political organizations that are a caucus or association of state or local officials from filing **Form 990** (or 990-EZ).*
- 5. Requires additional information on **Form 8871** and **Form 8872**.*
- 6. Requires the filing of an amended **Form 8871** after material changes to maintain tax-exempt status.*

*For further information please see IRS Fact Sheet FS-2002-13 at [www.irs.gov/newsroom/article/0,,id=103480,00.html](http://www.irs.gov/newsroom/article/0,,id=103480,00.html)*

**What is a section 527 organization?**

*A political organization subject to §527 is a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.*

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## Newsletter Fund

### What is a newsletter fund?

*A newsletter fund is a fund established and maintained by an individual to prepare and circulate your newsletter. The holder of any federal, state, or local elective public office may set up the fund. Candidates for any such office may also establish a newsletter fund, as may individuals who have been elected to public office but have not yet started their term in office. After an individual has left office, the newsletter fund provision is not available unless they again become a candidate.*

### How is a newsletter fund accounted for?

*A newsletter fund is treated as an exempt political organization. The assets in the fund must be maintained in a separate account and used solely to prepare and circulate the newsletter. Costs of preparing the newsletter include the cost of secretarial services and the cost of printing, addressing, and distributing the newsletter.*

### Is a newsletter fund taxable?

*A newsletter fund is subject to tax in a manner similar to a political organization, except that it is not allowed the \$100 deduction permitted to political organizations.*

### What about unexpended balances of a newsletter fund?

*The unexpended balances of a newsletter fund may be contributed to or for the use of another newsletter fund, transferred to the general fund of the U.S. Treasury or of any state or local government, or transferred to or for the use of an exempt public charity, without being considered as having been diverted for the individual's personal use. However, transfer of unexpended assets to a political organization, which is not a newsletter fund, will be considered as being diverted for the individual's personal use and deemed as taxable income to that individual.*

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## Advertising Expenses

### **As a member of the Legislature, I am often called upon to buy advertisements in trade journals, magazines, etc., published by various organizations in my district. May I deduct the cost of these ads?**

*Yes. It is important that a public official support worthwhile business and community activities in his or her district, and it is necessary that you keep your name before the public. However, it is advisable that any ads taken during a reelection campaign be paid for by campaign contributions, since they probably would not be deductible if paid from personal funds.*

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## Telephone Expenses

### **May 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.**

*The monthly charge to maintain local service is inherently personal in nature and usually nondeductible. Any charge for basic local telephone service with respect to the first telephone line provided to any residence of the taxpayer is personal and nondeductible.*

*Long distance telephone calls and telegrams, which are legislative related, would be a business expense. Also, if you have a telephone installed exclusively for business use, the entire cost is deductible.*

*The costs of using an answering machine or service are deductible if related to business use. The deduction would be based on the percent of business calls (use) to total use.*

**What expenses may I deduct for my cell phone? I use it for calling and receiving calls from constituents and for other state business.**

*A cell phone is considered listed property and must be listed on Part III of **Form 4562**. You must maintain records to substantiate the business use portion claimed. The business use portion will determine the basis for depreciation and will be applied to any monthly service charges to determine the deductible portion. Charges for calls that are legislatively-related would be a business expense. The business portions of service and call charges would be entered on Part I of **Form 2106**.*

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