

**2010  
ITEMIZED AND  
STANDARD DEDUCTIONS**

**CORRESPONDENCE  
COURSE  
FOR  
CONTINUING  
EDUCATION**

**BY**

**TAX EDUCATORS**

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Courses are updated when new forms are available and are maintained at Federal tax laws that pertain to the current **TAX** year and the same law that the Oregon Consultants Exam covers.

## **Acknowledgments**

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IRS: code, regulations and Letter Rulings  
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## **BASIC STANDARD DEDUCTION**

Filing Status	2007	2008	2009	2010
<b>Joint and Surviving Spouse</b>	<b>\$10,700</b>	<b>\$10,900</b>	<b>\$11,400</b>	<b>\$11,400</b>
<b>Head of Household</b>	<b>\$ 7,550</b>	<b>\$ 8,000</b>	<b>\$ 8,350</b>	<b>\$ 8,400</b>
<b>Single Individual</b>	<b>\$ 5,150</b>	<b>\$ 5,450</b>	<b>\$ 5,700</b>	<b>\$ 5,700</b>
<b>Married Filing Separate</b>	<b>\$ 5,450</b>	<b>\$ 5,450</b>	<b>\$ 5,700</b>	<b>\$ 5,700</b>

## **SPECIAL STANDARD DEDUCTION FOR 65 OR OVER OR BLIND**

This is a special **standard deduction**, not an extra **EXEMPTION**

**AGE 65:** (Considered 65 the day before 65th birthday)

**BLIND:** If blind on last day of the tax year

Totally blind: Attach physicians statement to first return

Partially blind: Attach statements *each year* unless it will never improve and cannot see better than 20/200 in better eye with glasses or contacts  
OR field of vision is not more than 20 degrees

If correctable only by contact lenses that can be worn *only briefly* because of pain, infection or ulcers, may take the blind deduction.

**Special standard deduction IN ADDITION to basic standard deduction**

For **EACH** over **65 OR BLIND** condition:

(Double amount shown if BOTH blind and over 65)

	<u><b>2007</b></u>	<u><b>2008</b></u>	<u><b>2009</b></u>	<u><b>2010</b></u>
M. F. J., M. F. S., Q.Widow/er	\$1,050	\$1,050	\$1,100	\$1,100.
Single or Head of Household	\$1,300	\$1,350	\$1,400	\$1,400.

**NOTE:** This is an **ADDITIONAL STANDARD DEDUCTION.**

If taxpayer ITEMIZES, the additional amount is NOT available.

## STANDARD DEDUCTION CHART FOR AGE 65 OR OLDER OR BLIND

Caution: If Someone else can claim you as a dependent do NOT use this chart

Caution: Do NOT use the number of EXEMPTIONS for this worksheet

Check if:                     Taxpayer over 65                     Taxpayer Blind  
                                   Spouse over 65                     Spouse Blind

Total Checked above \_\_\_\_\_

If filing status is:	And Total number Above is:	Standard Deduction				
		2006	2007	2008	2009	2010
Single	1	\$6,400	\$6,650	\$6,800	\$7,100	\$7,100
	2	\$7,650	\$7,950	\$8,150	\$8,500	\$8,500
Joint or Qual. Widow	1	\$11,300	\$11,750	\$11,950	\$12,500	\$12,500
	2	\$12,300	\$12,800	\$13,000	\$13,600	\$13,600
	3	\$13,300	\$13,850	\$14,050	\$14,700	\$14,700
	4	\$14,300	\$14,900	\$15,100	\$15,800	\$15,800
Married Filing Separate	1	\$6,150	\$6,400	\$6,500	\$6,800	\$6,800
	2	\$7,150	\$7,450	\$7,550	\$7,900	\$7,900
	3	\$8,150	\$8,500	\$8,600	\$9,000	\$9,000
	4	\$9,150	\$9,550	\$9,650	\$10,100	\$10,100
(For married filing separate (3) and (4) only apply if taxpayer can claim spouse as a dependent)						
Head of Household	1	\$8,800	\$9,150	\$9,350	\$9,750	\$9,800
	2	\$10,500	\$10,450	\$10,700	\$11,150	\$11,200

**If married filing a SEPARATE return and spouse itemizes deductions, or if taxpayer is a dual-status alien -- can not take the standard deduction even if you are over 65 or blind.**



## **ITEMIZED DEDUCTIONS**

Election to itemize must be made on the return

Can change the election by amended return

If married filing separate, both spouses must consent to a change in election.

If married filing separate, both must itemize if one itemizes

**CAUTION:**  
**FOR ELDERLY AND BLIND, THE STANDARD DEDUCTION**  
**IS BASIC PLUS ADDITIONAL STANDARD DEDUCTION.**  
**IF ELDERLY OR BLIND ITEMIZE, THEY DO NOT GET THE**  
**ADDITIONAL STANDARD DEDUCTION.**

The following forms MAY be required to be completed before determination of whether taxpayer should itemize or take standard deduction:

Form 4952 - Investment Interest Deduction

Form 8283 - Contributions other than cash over \$500 (\$5,000. in certain instances)

Form 4684 - Personal Casualty Losses

Form 2106 - Employee Business Expenses

**ITEMIZED DEDUCTIONS**

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**NO ADJUSTED GROSS INCOME LIMITATIONS ON**

**ITEMIZED DEDUCTIONS**

**FOR**

**2010**

**BACK IN 2011**

# **ITEMIZED DEDUCTIONS**

## **MEDICAL**

### **MUST BE PAID DURING THE TAX YEAR** (Cash basis)

For a person you could claim as a dependent.

(Except for failure to pass Gross Income Test or Joint Return test)

For spouse if married when incurred

**or**

For spouse if married when paid.

If Multiple Support Test met **and** the medical expenses were paid by **you**

### **EXCEPTION TO CASH BASIS:**

Decedents **paid from the estate:**

Deductible at time services rendered if paid within one year of death.

May amend.

(Expenses paid by the widow(er) must be in year paid)

### **GENERAL RULE:**

Total medical (including drugs) is limited to EXCESS over **7.5% of AGI**.

**If received distributions from medical savings accounts -special rules apply**

#### **Long Term care Premiums deductions are limited**

<b><u>Age at year end</u></b>	<b><u>Maximum deduction per person</u></b>
<b>40 or under</b>	<b>\$330</b>
<b>41-50</b>	<b>\$620</b>
<b>51-60</b>	<b>\$1,230</b>
<b>61-70</b>	<b>\$3,290</b>
<b>71 or older</b>	<b>\$4,110</b>

**Medical insurance premiums deduction is reduced by amount taken as S.E. health insurance deduction.**

# ITEMIZED DEDUCTIONS

## MEDICAL

### MEDICAL INSURANCE PREMIUMS

Included with other medical expenses:

#### **Medical insurance includes:**

Medicare "B" supplemental

Medicare "A" paid voluntarily

Contact lens insurance

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### Special Note for Oregon Tax Preparers

Be sure to get the total medical even if not enough for Federal

#### Oregon Medical

Oregon allows a special deduction for medical expenses that are **not** allowed on Federal because of the 7.5% AGI limitations **if taxpayer or spouse** meets the age requirements as of 12-31 of the tax year.

**AND** if itemized deductions are used if over the standard deduction.

The age requirement changes as follows:

Age 59 or over for 1993-1994

Age 60 or over for 1995-1996

Age 61 or over for 1997-1998

Age 62 or over for 1999 and after

**The special subtraction is allowed on Oregon even if itemized for Oregon only**

## SELF EMPLOYED INDIVIDUAL

### MEDICAL INSURANCE

If qualified plan (non discriminatory for employees)

Up to 100% for 2003 and after of cost of medical insurance for self employed individual **and** family are deductible as an **adjusted gross income** deduction.

This deduction does **not** reduce S.E. tax.

Effectively, this not only allows the 100% as AGI deduction, not subject to 7.5% limits but also reduces AGI and allows more other medical deduction if taxpayer can itemize and has sufficient other medical expenses..

Percentage is limited to earned income less Keogh Contribution deduction.

Deduction is disallowed for any **month** in which taxpayer or spouse were eligible to participate in any subsidized health plan maintained by his or her employer.

Reminder Medical Savings Accounts  
Deductible contributions to MSA are AGI deductions,  
not medical deductions on Schedule A

Must be employee of a small business (fewer than 50 employees)

or

Self employed

and

Covered only by a high deductible health plan

**SELF EMPLOYED INDIVIDUAL**

**MEDICAL INSURANCE**

**WORKSHEET**

1. Enter amount paid in current year for health insurance  
for taxpayer, spouse and dependents for current year . . . . . \_\_\_\_\_

2. Percentage used to figure the deduction..... 100%

3. Multiply the amount on line 1 by % on line 2..... \_\_\_\_\_

4. Enter your net profit from self employment (from  
Sch.C and F form 1040 and from Sch. K-1s and  
any other earned income\*) **MINUS** any deduction  
claimed on Form 1040..... \_\_\_\_\_

5. Compare the amounts on line 3 and 4. Enter the  
**SMALLER** of the two amounts here and on Form  
1040 line (Do NOT include this amount in  
figuring any medical expense deduction on  
Schedule A of Form 1040)..... \_\_\_\_\_

\* Earned income includes net earnings and gains (other than capital) from the disposition, transfer, or  
licensing of property you created.

**DEDUCTION FOR HEALTH INSURANCE  
PREMIUMS REDUCES NET EARNINGS IN  
FIGURING 2010 SELF-EMPLOYMENT TAX  
(12.2, 17.5, 45.1–45.4)**

If you were self-employed in 2010, you figure your self-employment tax liability by reducing your 2010 net earnings by the above-the-line deduction for health insurance premiums that you claim on Line 29 of Form 1040. The reduction for the premiums is made on Line 3 of Schedule SE, on both the Short Schedule SE and the Long Schedule SE.

The Small Business Jobs Act of 2010 (9/27/10) authorized the reduction of net earnings by the deduction for health insurance premiums only for 2010. The reduction will not apply for 2011 unless Congress extends the law.

## **ITEMIZED DEDUCTIONS**

### **DEDUCTIBLE MEDICAL**

#### **Obesity is now treated as a disease - 2002 and after**

Stop smoking program expenses-for 1996 and after \*\*

(excluding non prescription drugs such as nicotine gum or patches)

Nursing home entire cost if main reason is for medical care

Guide dog cost AND maintenance

costs attributable to a dog OR OTHER animal that assists individuals with OTHER physical disabilities may also be deducted as a medical expense.

Special equipment COST (not operations of auto)

Including special telephone or TB equipment for deaf

Including hearing aids and batteries

Including cost by which a specially designed vehicle to hold a wheelchair exceeds regular cost of vehicle

#### **Capital expenditures** (see next page)

Meals and Lodging included in hospital or nursing home charge

Face lift- **only if required for deformity or accident**, not cosmetic

Legal abortion

Christian Science Practitioners

X Rays

Dental, including false teeth

Nursing services (including nurses board and room)

Legal operation for sterilization

Medical charges included in tuition for college or private school

Lump sum life care fee if properly allocable to medical

Acupuncture services

Therapeutic treatment for drug and alcoholic including meals and lodging furnished.

Donor's expenses including transportation

Employers FICA expense for nurse or medical care

Psychiatric care - including special school dependent and

transportation for regular visits if recommended for therapy

Transportation for medical treatment **at 20 cents per mile** OR actual gas and oil (not repairs, etc.)

Lodging outside hospital if away from home and the lodging is primarily and essential to medical care by a doctor in a licensed medical facility.

\$50 per night per person maximum limit. (\$100.per night if traveling with patient as an attendant.)

(DESK COPY of receipt required)

Cost of removing lead base paint to protect child (not repainting)

**Handicapped care:** Special school if main reason is handicap relief. Includes tuition for special school for SEVERE learning disability.

Eyeglasses and contacts

Ambulance

Medical LAB fees

#### **Medicines and drugs that require PRESCRIPTION**

**(Including insulin and birth control pills)**

Braille books and magazines in excess of regular price of same

Oxygen equipment and oxygen

Pre-adoption costs if child qualified as dependent when the medical costs were incurred or paid for (Reimbursement of medical expenses incurred and paid before adoption

proceedings began are NOT deductible as medical expenses)

**Qualified long term care insurance and expenses after 1-1-97**(limited)

## MEDICAL

### CAPITAL EXPENDITURES AS MEDICAL DEDUCTION

Special equipment installed in home or improvements if **main** reason is for medical care.

Permanent improvements that increase value of the real property:

The medical deduction = the amount paid, reduced by increased value of property  
If value not increased, fully deductible as medical.

Primary purpose must be to accommodate personal residence to handicapped condition.

Items usually fully deductible as medical expense  
(generally do not increase value)  
include:

Entrance and exit ramps  
Widening doorways  
Widening hallways  
Installing railings, support bars in bathrooms  
Lowering or modifications to kitchen cabinets and equipment  
Altering location of electrical outlets and fixtures  
Porch lifts and other forms of lifts.  
(Generally does NOT include elevators because they add to value of residence)  
Modifying fire alarms, smoke detectors and other warning systems  
Modifying stairways  
Adding handrails or grab bars whether or not in bathroom  
Modifying hardware on doors  
Modifying front entrance and exit doorways areas  
Grading of ground to provide access to residence.

**If capital expense qualifies as medical expense, amounts paid for the operation and upkeep also qualify as long as medical reason still exists.**

## ITEMIZED DEDUCTIONS

### MEDICAL CONTINUED

#### MEDICAL INSURANCE REIMBURSEMENT

Tax benefit rule applies.

Reimbursement of expenses deducted in prior year is NOT used to reduce current year medical expenses.

If deducted in prior year, reimbursement is reported on form 1040 page 1.

#### Medical reimbursements in general:

Reduce **current** year medical expenses by **current** year reimbursements.

Damages for personal injury suit:

- a) Portion for medical reduces medical expenses
- b) Included in current year **income** if deducted as medical prior year.
- c) Do **not** reduce medical expenses by amounts received for:
  - i) loss of earnings
  - ii) personal injury **damages**

**Future** medical expenses settlement:

- a) Reduce **each** year by amount received until completely used up

**Excess** reimbursement included as **income**

#### MEDICAL OR EMPLOYEE BUSINESS EXPENSE??

If required by job, (ICC physical) may be 2106 expense subject to 2% AGI limits as misc., itemized, rather than medical, subject to 7.5% AGI medical deduction.

#### DISABLED DEPENDENT CARE EXPENSES

May qualify as **medical** expenses **or** work-related expenses for dependent care **credit!!**

May choose to use in either manner, but not both.

**Some un-reimbursed expenses may be deductible as either medical or business expenses. They are deductible business expenses if qualified *impairment related work expenses.***

## **MEDICAL**

### **NON DEDUCTIBLE MEDICAL**

Social activities for improvement of health, even if doctor recommended

Vitamins for general health

Trips for health improvement

Toothpaste and toiletries

Adoption expense paid PRIOR to status as a dependent

Meals and lodging away from home even if on doctor's advice

Auto insurance premium allocable to medical insurance

Basic medicare insurance premium

Illegal treatment

Funeral expenses

Health Club dues

Maternity clothing

Cosmetic surgery

Diaper services

Nursing care for healthy baby

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## **INTEREST**

### **Must be PAID on a debt which taxpayer is LEGALLY LIABLE for**

Except taxpayer using accrual accounting method

Payment made for someone else's debts are NOT deductible if payor is not legally liable to make the payment.

Both lender and borrower must intend that loan be repaid

Must be a true debtor-creditor relationship (Related party rules apply)

### **INTEREST PAID IN ADVANCE**

Must be adjusted to apply only allocable to present year.

### **REFUNDS OF INTEREST:**

Must reduce amount of interest paid if refunded in current year.  
Report as INCOME if reimbursed in following years.

### **PERSONAL INTEREST**

Personal interest is non-deductible.

Personal interest includes:

Interest charged on credit cards

Car loans

Installment purchases.

### **LIMIT ON ITEMIZED DEDUCTIONS**

Certain itemized deductions (including home mortgage interest) are limited if adjusted gross income is more than \$166,800 (\$83,400 mfs) FOR 2008

### **SELLER FINANCED MORTGAGES**

Seller's social security number or employer identification number is required on Sch. A of 1040 as well as seller's name and address. (Seller must report buyer's ID number on Sch. B interest income)

## MORTGAGE INTEREST

### MUST BE SECURED DEBT:

The qualified home must be specific security for debt.

Debt instrument must be recorded.

Debt instrument must satisfy debt the same as any mortgage or deed of trust.

Includes second mortgage, line of credit, home equity loans (with limits)

Includes refinanced mortgages.

**Not secured debt if secured solely because of a lien on general assets  
(Mechanics lien, judgement lien)**

### MUST BE QUALIFIED HOME:

Main home: (Home in which you live).

**and**

**One** "other" home (Second home).

If more than one second home, may choose only one but may choose a different one each year.

### HOME:

House

Condominium

Cooperative

Mobile home

Boat

or similar property that includes basic living accommodations  
(sleeping space, toilet and cooking facilities)

### HOME PARTLY RENTED OUT:

To qualify as second home, property cannot be rented to others or must meet the definition of personal use under the vacation rules. **If the property is rented at all during the year, the taxpayer must use the property as a residence for the greater of 14 days or 10% of the rental days.**

### TIME SHARES

Can be second homes only if fee simple or deeded time shares in which taxpayer owns the property **and the time share is not rented**

## MORTGAGE INTEREST

### HOME UNDER CONSTRUCTION:

May be treated as qualified home for up to 24 months.  
If property becomes qualified home at the time ready for occupancy.  
24 months starts when construction begins.  
Purchase of lot, plans, and designing do NOT constitute construction.

### MARRIED FILING SEPARATE:

Both treated as one taxpayer for determining qualified homes.  
If own two homes - each may deduct interest on one home.  
Either may deduct BOTH home interest if consent to do so in writing.  
Home acquisition debt limit is \$500,000 and home equity debt limit  
is \$50,000 (half of the joint amounts)

### QUALIFIED RESIDENCE INTEREST

With respect to **principal and second residence**

Interest on **acquisition** indebtedness (Limit: home acquisition debt plus an  
grandfathered debt total \$ 1 million or less (\$500,000 if mfs)  
**AND** Home **equity** indebtedness (only if throughout current year these mortgages totaled  
\$100,000 or less (\$50,000 if mfs)

#### **Qualified Residence Rules - Specific:**

Interest paid by ministers on qualified mortgages allowed as  
mortgage interest even if non-taxable housing allowance received.  
Interest **not** allowed where mortgage interest credit is taken  
Interest **not** allowed if paid by mortgage assistance program  
**Points** paid by the **seller** not allowed as mortgage interest **by**  
**the seller. Buyers** may deduct points paid in connection  
with **home purchases even if the seller paid the points**  
(after 12-31-90) (Rev. Proc. 94-27 IRB 1994-15,17)

## **MORTGAGE INTEREST**

### **ACQUISITION INDEBTEDNESS**

Mortgages before 10-14-87 (grandfather debt)

Treated as home acquisition debt

NOT subject to \$1 million limit on other home acquisition debt

Mortgages after 10-13-87 Incurred in:

Acquiring, Constructing or substantially improving.

Amount of acquisition debt can not **exceed** cost of home plus improvements.

Mortgages total of before 10-14-87 and after 10-13-87 (combined):

Limited to \$1,000,000. (1 million dollars) or less. (\$500,000 if married filing separate)

Limit is reduced (but not below zero) by the amount of grandfathered debt.

Amounts over the limit up to \$100,000 (\$50,000 married filing separate)

may qualify as home EQUITY debt.

Acquisition debt is reduced as payments on principal are made.

### **CAN NOT BE INCREASED BY REFINANCING**

Except by indebtedness incurred to substantially improve residence

(If acquisition indebtedness incurred at \$85,000 and paid debt

down to \$60,000, indebtedness with respect to the residence can

not be increased above \$60,000)

### **MAXIMUM ACQUISITION INDEBTEDNESS \$1 MILLION**

On principal AND second residence

If taxpayer's debt to acquire, construct, or substantially improve principal AND

second residence exceeds \$1 million, only the interest on a total principal amount of \$1 million of such debt may be deducted as acquisition interest.

Until other regulations are issued, a reasonable method of allocation must be used. i.e. ascertain which debt is the debt that exceeds the limitation by taking into account in chronological order in which it was incurred or most recently financed with the most recent debt (or portion thereof) treated as the amount of debt that exceeds the limit.

## **MORTGAGE INTEREST**

### **ACQUISITION INDEBTEDNESS CONTINUED**

#### **MARRIED FILING SEPARATE LIMIT IS \$500,000**

If two homes, each may deduct one (subject to limit)

One may deduct both homes if written consent by both spouses -  
signed and attached to return of the spouse claiming the deduction.

#### **REFINANCED ACQUISITION DEBT**

Continues to be treated as acquisition debt to extent that the principal amount does not exceed the principal amount of acquisition debt **immediately prior** to refinancing.

## **MORTGAGE INTEREST CONTINUED**

### **HOME EQUITY INDEBTEDNESS**

Debt secured by residence  
Taken out after 10-13-87  
Other than grandfathered debt or home acquisition debt

**Qualified Home Equity Interest is deductible even though proceeds were used for personal expenditures.**

**MAXIMUM HOME EQUITY INDEBTEDNESS IS SMALLER OF:  
\$100,000 (\$50,000 MARRIED FILING SEPARATE)**

**OR FAIR MARKET VALUE LIMIT**

**FAIR MARKET VALUE LIMIT**

Fair market value of home **minus** home acquisition debt (including grandfathered debt).

### **MEDICAL AND EDUCATIONAL EXPENDITURES:**

Interest on debt incurred for such expenditures is allowed in the same manner as interest on any other home **equity** indebtedness under this provision. (Must be secured by the residence)

### **PRE OCTOBER 13, 1987 INDEBTEDNESS IS GRANDFATHERED!!!**

Pre Oct. 13, 1987 Debt: Any debt incurred on or before 10-13-87 and secured by a qualified residence on 10-13-87 and **at all times** thereafter before the interest is paid or accrued. Also includes debt secured by a qualified residence to refinance existing pre-Oct. 13, 1987 debt, to the extent that the principal amount of refinancing does not exceed the principal amount of the refinanced debt immediately before the refinancing. Refinancing may not exceed the **term** of debt beyond term of the acquisition debt immediately before refinancing.

**BALLOON NOTES:** Interest in any otherwise qualified refinancing will be deductible for the term of the **first** refinancing of such acquisition debt, but **not more than 30 years** after the **first** refinancing.

## **MORTGAGE INTEREST CONTINUED**

### **POINTS**

Include: loan origination fees, maximum loan charges, premium charges

If **only for the use of the money**- it is interest

Interest paid in advance - must be allocated over period of loan

### **POINTS TO BUY OR IMPROVE MAIN HOME DEDUCTIBLE IN YEAR PAID IF:**

Established business practice in area  
Not in excess of points generally charged in area  
Computed as a percentage of principal amount of mortgage  
Used to improve main home  
Paid with funds other than funds from lender  
And Used to buy main home.

Points are **not** included in computing deductible mortgage interest form 8598

Points are reported in form 8598 **separately**

**FULLY DEDUCTIBLE:** Report on same line as other mortgage interest (Sch. A)

**EXCESS POINTS** : (over what generally charged in the area) Must spread over life of loan.

### **SECOND HOME:**

Points must be deducted over life of the loan

### **REFINANCE POINTS:**

Amortized over life of loan

**Unless:** funds used to improve main home **and** points are paid from private funds (not from loan proceeds)

Points related to funds used for improvement deductible in year paid and balance over life of loan

**Loan origination fee charged for services for getting a VA or FHA loan to buy your main home are also deductible.**

**POINTS PAID BY SELLER ARE NEVER INTEREST DEDUCTION FOR SELLER.**

After 12-31-90, **buyers** may deduct points on home purchase even if points were **paid by the seller.**

(Rev. Proc. 94-27 IRB 1994 -15,17)

## MORTGAGE INTEREST CONTINUED POINTS

**PREPAID INTEREST:** Cash basis taxpayer must capitalize and deduct ratably over term of the loan

**Exception:** Points that are paid on debt incurred in connection with the purchase or improvement of principal residence. For purposes of the prepaid interest rules, the term "points" refers to a charge that is in the nature of prepaid interest. Charge must represent interest paid for the use or forbearance of money and must be prepaid or paid before the time that it represents a charge for the use of the money.

### **Cash basis taxpayer may fully deduct points in year of payment if:**

- ✓ The debt is secured by the taxpayer's personal residence
- ✓ The payment of points is an established business practice in the area in which the debt is incurred and
- ✓ The amount of points paid does not exceed the amount generally charged in the area.

The issue that often arises is whether fees incurred in obtaining a mortgage are charges for interest or for specific services provided by the lender or mortgage broker. Service charges may include the lender's appraisal fee, preparation of mortgage note, deed of trust, or settlement fees and notary fees. Some preparers improperly deduct all points paid on a home mortgage loan, even though points charged by the lender are for specific services in setting up the loan are not deductible as interest.

Example: Jack obtained a 15 year \$100,000 conventional mortgage to buy his home and was required to pay 4 points (\$4,000.) Three points (\$3,000) represent prepaid interest, and one point (\$1,000) represented a loan fee for lender's services. Jack may deduct only the \$3,000 (if all other requirements are met).

### **ACTUAL PAYMENT**

Cash basis taxpayers may deduct points representing prepaid interest only if the points are **actually paid**. IRS safe harbor rules now consider direct payment requirement met if the taxpayer has actually paid other closing costs that are at least equal to the required points. The closing costs include down payments, escrow deposits, and earnest money applied at closing.

### **SELLER PAID POINTS**

Seller paid points are considered as paid **to** the buyer and buyer, in turn, pays to lender. **Buyer must reduce basis of home in order to be treated as having paid the points.**

**ITEMIZED DEDUCTIONS**  
**INVESTMENT INTEREST EXPENSE**

**INVESTMENT INTEREST**

Paid on money borrowed that is allocable to investment income.

**INVESTMENT INCOME**

Gross from property held for investment

Interest  
Dividends  
Annuities  
Royalties not derived in ordinary course of trade or business

Net capital gain from disposition of investment property (other than passive activity)

Generally **not** included in investment income

May **elect** to include gain but must make an adjustment to the maximum amount eligible for the capital gain tax treatment if so elected.

Does **not** include Alaska permanent fund dividends.

**INVESTMENT EXPENSES**

All income producing expenses, other than interest relating to investment property.

After application of 2% limit

In figuring the amount over the 2% limit, expenses that are not investment expenses are disallowed before any investment expenses are disallowed.

**PASSIVE ACTIVITIES**

Income or expenses used in computing passive activity income or loss are **not** included in determining investment income or investment expense.

**NET INVESTMENT INCOME**

Investment income **less** Investment Expenses (other than interest)

**ITEMIZED DEDUCTIONS**  
**INVESTMENT INTEREST EXPENSE**  
**(FORM 4952)**

**DEDUCTION LIMITED TO NET INVESTMENT INCOME**

<b><u>Example:</u></b>	
Total investment income	\$12,000.
Minus Investment expenses (other than interest)	<u>-980.</u>
Net investment income	\$11,020.
Investment interest expense	<u>- 12,500.</u>
<u>Excess</u> interest carryover	\$ 1,480.
	=====

**CARRYOVER**      Disallowed portion

Deduct carryover to extent following year net investment income exceeds investment interest in THAT year.

**EXCEPTION TO FILING REQUIREMENT FOR FORM 4952**

If the only investment income was from interest or dividends **and** there are no other deductible expenses directly connected with the production of that income **and** investment interest does not exceed the total of that income. Do not complete or file form 4952 - Enter investment interest directly to Schedule A.

## ITEMIZED DEDUCTIONS

### BOND PREMIUM AMORTIZATION

#### BONDS THAT YIELD TAXABLE INTEREST

May choose to amortize premium paid to buy the bond over life of bond

If choose to amortize premium must reduce basis

If do **not** choose to amortize - can be used as basis at time of sale.

#### BONDS THAT YIELD TAX EXEMPT INTEREST

**MUST** amortize premium

Amortize amount is **not** deductible

Must reduce basis by amortized amount, even though not deductible.

#### STUDENT LOAN INTEREST

**Beginning in 1998 taxpayers may deduct interest paid on qualified student loans as an AGI deduction. This is NOT an ITEMIZED deduction. See line 24-Form 1040!!**

## ITEMIZED DEDUCTIONS

### TAXES

#### MUST BE IMPOSED ON TAXPAYER AND PAID

<u>DEDUCTIBLE</u>	<u>NON DEDUCTIBLE</u>
State and Local Income Tax	State sales Tax
<b>OR</b>	Special Luxury Tax
State & Local SALES Taxes - <i><u>NEW in 20004</u></i>	Federal Income Tax
Employee contributions to State Disability Fund (Calif. SDI)	Social Security Tax
Real Property Tax	Federal Excise Tax
Local benefit tax (For Maintenance/repairs)	Customs Duties
Personal Property Tax (Oregon-generally a business deduction)	Federal Estate and Gift Tax
State transfer tax on Sale of Securities	Motor Vehicle <b>license</b>
Indian Tribal Government Taxes	Drivers license
Employee contributions to State unemployment fund	Dog license
Foreign Income tax if paid on <b>taxable</b> income (not on income excluded under foreign income exclusion)	Auto inspection fees
	Hunting license
	Tobacco/Alcohol Tax
	Bridge tolls
	Fines and Penalties
	Sewer and Street Assessments
	Employee Contributions to a <b>private</b> disability fund
	Sanitation service fees
	Tax Surcharge Imposed as Rent
	Homeowner Assoc. Assessments
	State transfer tax on sale of <b>real estate</b>
	Per capital tax
	Marriage License
	Local Gas tax
	FICA tax on household help (May be medical or child care deduction)

## ITEMIZED DEDUCTIONS

### TAXES

#### PERSONAL PROPERTY TAX

##### Deductible

1. Tax must be imposed **only** on the value of the property
2. Must be charged on a **yearly** basis
3. Must be charged on personal property

Including charges for exercise of privilege (auto registration)

#### STATE AND LOCAL INCOME TAXES

Includes taxes on **interest** income that is exempt from Federal Tax

Does **not** include State tax on other **exempt** income.

##### INCLUDES:

Amounts withheld during the current year

Amounts paid in current year on prior year liability.

Estimated tax payments **paid** in **current** year:

1. Includes over payments applied from prior year
2. Includes January (current year) payment paid in current year **for** prior year.
3. Does **not** include final quarter estimate for current year if not paid until following January.
4. **MUST HAVE A REASONABLE BASIS FOR MAKING STATE ESTIMATED PAYMENTS.**

You may deduct State & Local General Sales Taxes in lieu of State & Local Income Taxes on Schedule A. You can use your receipts or the IRS tables in the Schedule A instructions to determine your sales tax deduction. If you use the IRS tables you can add sales tax paid for a motor vehicle to the extent the rate does not exceed the general sales tax rate, as well as sales tax on a boat and other items allowed by IRS instructions.

## ITEMIZED DEDUCTIONS

### TAXES

#### REAL ESTATE TAXES

Must be levied for **general public welfare**

**Not** if for local benefits and improvements that increase value of property  
(Sewer, street and sidewalks assessments are non-deductible)

**Tenant-shareholders** (Condominiums) - pro-rata share of tax

**Purchase or Sale**- Prorate on number of days in **real property tax year** owned

**Delinquent taxes paid by buyer on purchase:**

Non deductible as taxes by **buyer**(added to basis)

Deductible by **seller** when paid out of sale proceeds.

**Held in Escrow out of monthly payments:**

**Not** deductible until the Escrow company **actually pays** taxing authority.

**Married filing Separate - Joint tenants Property:**

Each may deduct only the portion **they** actually paid.

**Minister's Housing Allowance**

Even though housing allowances are excluded from taxable income,

Real Estate Tax paid **from** the housing allowance **is** deductible.

## ITEMIZED DEDUCTIONS

### CONTRIBUTIONS

#### MUST BE PAID TO A QUALIFIED CHARITABLE ORGANIZATION

#### QUALIFIED CHARITABLE ORGANIZATION

To or for the use of:

State, U. S. Possession, Political Subdivision of a State or Subdivision, the United States, or the District of Columbia **IF** made only for **public** purposes.

Community Chest, Corporation, Trust, Fund or Foundation (**domestic**) **IF** operated **only** for charitable, religious, educational, scientific or literary purposes, or for prevention of cruelty to children or animals.

Includes:        Non profit hospitals and medical research  
                     Churches and other religious organizations  
                     Most non profit educational organizations

War Veterans Organizations - organized in the U.S.

Non profit volunteer Fire Company

Civil Defense Organization

Domestic fraternal organization operating under "Lodge" System **IF** the contribution is **only** for charitable, religious, scientific, literary or educational purposes, or prevention of cruelty to animals or children.

Non profit cemetery **IF** used for the **whole** cemetery

Non profit day care center **IF** available to general public **and** to enable users to work.

#### DISASTER RELIEF

Contributions earmarked for flood relief, hurricane relief or other disaster relief to a qualified organization. (Not for relief of a particular individual or family.)

**Cash contributions for Midwestern Disaster Area Relief.** The Emergency Economic Stabilization Act of 2008 (P.L. 110-343) removes the 50% limitation for all qualified cash contributions to charitable organizations for relief efforts in the 'Midwestern Disaster Area'. To be considered qualified contributions, they must have been paid during the period beginning on the date on which the relevant storms occurred and ending on December 31<sup>st</sup>, 2008.

## ITEMIZED DEDUCTIONS

### CONTRIBUTIONS

#### SUBSTANTIATION REQUIRED - REV. REC. ACT OF 1993

No deduction allowed for each **separate** contribution of \$250 or more **unless** taxpayer has **WRITTEN** substantiation from donee organization of the contribution including good-faith estimate of the value of the goods or service.

Separate payments generally treated as separate contributions, not aggregated.

Responsibility of taxpayer (not donee organization) to request and maintain substantiation from the charity. May **not** rely solely on canceled check.

If no goods or services to taxpayer, written substantiation is required to include a statement to that effect.

If **NON** cash contribution worth \$250 or more taxpayer required to obtain from the charity a receipt that describes the donated property and indicates whether goods or services were given to taxpayer in exchange. Does **not** require the charity to **value** the property it receives.

#### STARTING AUGUST 17, 2006:

Calendar year taxpayers will not be effected until year 2007.

No deduction for donated clothing and/or household items that are not in good or better condition. An exception is provided if the deduction for a single item exceeds \$500 and taxpayer includes a qualified appraisal.

No deduction for cash, check or other monetary contribution unless donor produces a bank record or a receipt, letter or other written communication from the charitable organization.

Charitable mileage rate is 14 cents per mile with legitimate 'calendar logging of miles traveled'.

## ITEMIZED DEDUCTIONS

### CONTRIBUTIONS

#### APPRECIATED PROPERTY CONTRIBUTED

##### Ordinary Income Property:

Contribution deduction is limited to FMV less amount that would have been ordinary income if sold at FMV

(Includes depreciation recapture property)

##### Capital Gain Property:

Generally - deductible at Fair Market Value.

Except: Must reduce FMV of capital gain property **IF:**

Contributed to certain private non-operating foundations.

Choose 50% instead of special 30% limit (see limits next pages)

Property is tangible personal property that is used for an **unrelated use.**

#### FOR 2004 AND LATER:

Deductions for a contribution of intellectual property in the year of donation is limited to its basis, and additional donations based on the income from the property are allowed in later years.

## ITEMIZED DEDUCTIONS

### CONTRIBUTIONS

#### QUID PRO QUO CONTRIBUTIONS

*Quid-Pro-Quo* = partly contribution and partly in consideration for goods or services.

Charitable organization receiving such contributions in excess of \$75 is required to provide a written statement to donor that:

1. Informs donor that the amount of the contributions that is deductible for federal tax purposes is limited to the excess of the amount of money (and value of property other than money) over the value of the goods or services provided by the organization.

#### AND

2. Provides the donor with a good faith estimate of the value of goods or services furnished to the donor by the organization.

This provision is **not** applicable to de minimis token goods or services given to donor

i.e.:

FMV of not more than 2% of the payment OR \$50 whichever is less.

Or

Payment of \$25 or more and the only benefits are token items such as bookmarks, calendars, key chains mugs, posters, T shirts bearing name of the organization or logo.

**Penalty for failure to make required disclosure is \$10 PER CONTRIBUTION capped at \$5,000 per particular fund raising EVENT or mailing.**

## ITEMIZED DEDUCTIONS

### CONTRIBUTIONS

#### CONTRIBUTIONS LIMITS

##### 50% of AGI:

Public charities  
Private operating foundations  
Private non operating foundations who distribute contributions  
    To public charities within 2 ½ months following year.  
Certain private foundations where distributed to public charities.

##### 30% of AGI:

Veterans organizations  
Fraternal societies  
Non profit Cemeteries  
**Contributions for the USE of any organization**  
Capital Gain property (Long Term) that does **not** have to be reduced  
    by appreciation.  
    Alternative: You may **elect** 50% (see prior page)

##### 20% of AGI:

Long term Gain appreciated property **to** veterans organizations  
fraternal societies, non profit cemetery co., private non operation  
foundations.

##### Election for raising the limit:

Instead of applying the 30% or 20% limit, a 50% limit may be used if the amount of contribution is reduced by all of the appreciation. If this election is made, all gifts - including carryovers - must be reduced by appreciation. The election is made with an attachment to Form 1040 simply stating that the election is being made.

#### CARRYFORWARD OF EXCESS CONTRIBUTIONS

**Five years ONLY**

## **ITEMIZED DEDUCTIONS**

### **CONTRIBUTIONS**

#### **REPORTING REQUIREMENTS - FORM 8283**

##### **Non cash over \$500 but not over \$5,000**

Must file form 8382 and complete part A

##### **Non cash over \$5,000:**

Must file form 8382 and complete Part B

Requires **written** appraisal

##### **Disposition of contributed property by organization within 2 years:**

Organization required to file form 8282 and send copy to donee

##### **Alternative minimum tax preference item**

**No longer tax preference item for contributions made after 1992.**

##### **Charitable Contributions in connection with athletic events**

Contributions to or for benefit of college or university which entitled contributor to purchase tickets to athletic events allowed deduction to extent of 80% of the payment as a charitable contribution.

Amounts attributable to **actual** cost of tickets is **not** part of the contribution for which the 80% deduction is allowed.

Does **not** apply if contributor receives **tickets** rather than **right** to purchase tickets, in return for the payments.

## ITEMIZED DEDUCTIONS

### CONTRIBUTIONS

<u>DEDUCTIBLE</u>	<u>NON DEDUCTIBLE</u>
Church	Dues/fees to country club, lodges fraternal organizations, etc
Salvation Army	
Red Cross	Raffle, Bingo
CARE	Lottery tickets
Goodwill Industries	Tuition
United Way	Value of time/service
Boy Scouts, Girl Scouts etc.	Value of blood donated.
Veterans and certain cultural groups	Donations to Homeowners Assco.
Non profit schools and hospitals	<b><u>Gifts to INDIVIDUALS</u></b>
Fed., State, Local Govt. if <b><u>solely</u></b> for <b><u>public</u></b> purposes	
Civil defense organization	
Public park and recreation	
Utility Co. emergency energy program	
Un-reimbursed expenses to maintain foster children	

### **BENEFITS RECEIVED:**

Contribution deduction only for the amount which costs exceeds FMV

## ITEMIZED DEDUCTIONS

### CONTRIBUTIONS

#### MAINTAINING A STUDENT IN HOME:

Contribution deduction up to \$50 per full month (school months)

Student may be foreign or American

Can not be a dependent or a relative

Must be a member of household under a **written** agreement with  
a **qualified organization**

Purpose of agreement is to provide education opportunities

For each **full** calendar month during which student is:

Member of Household **and**

Full time student in 12<sup>th</sup> or lower grade at a school **located in the U.S.**  
(15 or more days in a month is a full month)

Depreciation and FMV of lodging is **not** considered

Must spend money for well-being of the student

(Books, tuition, food, clothing, entertainment)

Compensated or reimbursed - **no** deduction

(Except if reimbursed for extraordinary or non-recurring item)

Exchange student: If taxpayer's child exchange - deduction **only** if contribution  
exceeds FMV of services received by taxpayers child.

#### OUT OF POCKET EXPENSES (Not value of services)

##### Includes:

Cost of and upkeep of uniforms

Car expenses- **14 cents** per mile **OR** **actual gas and oil**  
(not repairs, maintenance or depreciation)

**Parking fees and tolls in addition to either method**

#### TRAVEL EXPENSES:

Allowable as a contribution **only if NO** personal, pleasure, recreation or vacation  
element is present.

Deduction is not denied simply because the taxpayer enjoys providing the service.

Meals are deductible if there is no significant element of personal pleasure, recreation or vacation in  
the travel.

## ITEMIZED DEDUCTIONS

### CASUALTY AND THEFT LOSSES

(Form 4684 Required)

#### CASUALTY

Sudden or  
Unexpected or  
Unusual in Nature

#### THEFT

Illegal under law **and** done with criminal intent

#### PERSONAL NON BUSINESS LOSS LIMITATION:

1. Excess over \$100 per loss
- PLUS**
2. Excess over 10% of AGI

#### BUSINESS LOSSES NOT SUBJECT TO \$100 OR 10% AGI FLOORS

#### SENTIMENTAL VALUE IS NOT A DETERMINING FACTOR

#### FMV BEFORE AND AFTER DETERMINES AMOUNT OF LOSS

#### COST OF REPAIRS AND RESTORATION (REPLACEMENT) IS NOT USED TO DETERMINE THE AMOUNT OF LOSS.

## ITEMIZED DEDUCTIONS

### CASUALTY AND THEFT LOSSES

<u>DEDUCTIBLE</u>	<u>NON DEDUCTIBLE</u>
Hurricane	Breakage through normal handling or by a household pet.
Tornado	Disease damage to plants, shrubs, etc unless unusual
Flood	Termite damage
Earthquake	Moth damage
Volcanic eruption	Progressive deterioration
Smog (if unusual)	Prolonged drought
Shipwreck	Mislaid or lost property
Fire	Appraisal fees to determine amount of loss (This is a misc. sch. A deduction)
Accident	
Mine cave in	
Sonic boom	
Vandalism	
Damage to ornamental trees or shrubs by <u>casualty</u> .	

#### PROOF REQUIRED

##### CASUALTY

When occurred, direct result of casualty, ownership or contractual liability

##### THEFT

When discovered missing, actually, stolen, ownership of property.

#### AMOUNT OF LOSS

Lesser of the Decrease in FMV or adjusted basis before loss.

#### 10% AGI RULE

If casualty **gains** exceed casualty **losses**, the 10% rule is **not** applied.

If **losses** exceed **gains**, the 10% rule applies **only to excess** losses.

## ITEMIZED DEDUCTIONS

### CASUALTY AND THEFT LOSSES

#### INSURANCE CLAIMS AND REIMBURSEMENTS

##### COVERED BY INSURANCE

**Must file claim** in order to deduct casualty and/or theft losses.

Reimbursement deducted from loss

If **expected** reimbursement, must deduct from loss even if not received.

Reimbursement more than basis = **GAIN**

**Exception: Requirement to file claim is not applicable to the portion of the loss not covered by insurance (deductible amount)**

##### REIMBURSEMENTS INCLUDE

Insurance payments

Forgiveness of Federal Disaster Relief Loan

Repairs or repayments from lessee

Court awards for damages (less attorney fees)

Repairs, restoration, cleanup provided by relief agencies.

Payments received from employer's emergency disaster fund

##### REIMBURSEMENTS DO NOT INCLUDE (Do not reduce casualty loss by)

Grants, gifts or other payments received to help after the casualty **unless** specified to repair or replace property.

Living costs paid by insurance company - not a reimbursement

Portion that covers **normal** living expenses is **non-taxable income**

Excess received for above is **taxable and not a reimbursement.**

Disaster relief (food, medical supplies, etc. ) not reimbursement unless replacements for lost or destroyed property. Not taxable income.

##### RECOVERY OF STOLEN PROPERTY AFTER DEDUCTION FOR LOSS TAKEN

If re-figured loss is less than original loss deduction difference is **income** for the year property is recovered.

##### LOSS ON DEPOSITS - CHOICE FOR DEDUCTION

(From insolvent or bankrupt financial institutions)

1. As a bad debt **or**
2. As a casualty loss  
If not a 1% owner, officer or related to owner or office of institution **or**
3. As ordinary loss  
Subject to limit of 20% and \$20,000 annual limit.

**ITEMIZED DEDUCTIONS**  
**MISCELLANEOUS**

**MISC. DEDUCTIONS SUBJECT TO 2% AGI LIMITS**

Appraisal fees for casualty loss determination  
Legal fees to produce or collect income, manage, conserve or maintain property held for producing income, or determine, contest, pay or claim a refund of tax.  
Clerical help/office rent to care for investments  
Custodial fees in connection with income producing property  
Dues to professional societies  
Employment related education (see detail information later)  
Fees to collect interest and dividends (broker's management fees)  
Hobby expenses to extent of income  
Investment counsel fees  
Laboratory breakage fees  
Liquidated damages for breach of employment contract  
Job search including resume expenses  
Malpractice insurance  
Medical examinations required by employer  
Occupational taxes  
Office in home if qualified for employee  
Research expense of college professor  
Safety deposit box  
Small tools and supplies used in work (employee)  
Tax preparation fees  
Union dues and expenses  
Work clothes and uniforms  
Business bad debt of employee  
Business liability insurance premiums  
Depreciation on home computer or cellular phone required by employer or used in investments  
Dues to Chamber of Commerce if helpful in doing job  
Passport for business trip  
Repayment of income aid payment  
Subscription to professional journals and trade magazines to work  
Excess deductions allowed beneficiary on termination of estate/trust  
Loss on deposits in an insolvent or bankrupt financial institution  
**Repayments of income**  
**Repayments of social security benefits**  
Trustee fees for IRA if separately billed and paid.  
Indirect deductions of pass-through entities  
Allocated expenses of mutual funds

**ITEMIZED DEDUCTIONS**  
**MISCELLANEOUS**

**MISC. EXPENSES NOT SUBJECT TO 2% AGI LIMITS**

Gambling losses to extent of gambling winnings  
Federal Estate tax on income in respect of decedent  
Amortizable bond premiums  
Deduction for repayment of substantial amounts under claim of right  
Unrecovered investment in pension (see pension section)  
Impairment related work expenses of handicapped individual.  
**Officials paid on a fee basis (employed by a state or local government and paid in whole or part on a fee basis)**

**NON DEDUCTIBLE EXPENSES IN GENERAL**

Adoption expenses	Tax exempt income expenses
Check writing fees	Wrist watches
Capital Expenses	Campaign expenses
Club dues	Fee/licenses for personal
Fines and Penalties	
Lobbying expenses	Travel expenses for another individual (spouse, or dependent)
Home repairs and insurance	
Relief fund contributions (Private plan that pays benefits to covered employee who cannot work because of injury or illness not related to job)	Health spa expenses
Life insurance	Illegal bribes
Lunches/Meals while working late	Personal living expenses
Political contributions	Lost or Misplaced property
Stockholder meeting attendance	Self improvements expenses
Funeral expenses	Voluntary unemployment fund.
Commuting expenses	
Professional reputation (Expenses of radio/TV appearances to increase prestige or establish a personal reputation)	
Parking tickets	
Home rent	
Loss from Sale of Personal Assets.	
Personal Legal expenses (i.e. will, divorce)	
Prof. Accreditation fees	
Basic local telephone service (for first telephone line to personal residence even if used in business)	

## **ITEMIZED DEDUCTIONS**

### **EMPLOYEE BUSINESS EXPENSES**

#### **MUST FILE FORM 2106 UNLESS**

1. Employee accounts to Employer AND reimbursements EQUALS expense

**OR**

2. Not claiming travel, transportation, meals or entertainment expenses  
AND were not reimbursed for any expenses claimed.

**OR**

3. Self employed when travel, transportation, meals or entertainment  
expenses incurred.

#### RELATED EDUCATION INCENTIVES

**A number of tax benefits are available to families who are saving to pay or paying for higher education expenses or who are repaying student loans.  
Be sure to review these benefits before deducting education expenses as an itemized deduction subject to 2% limits**

**Hope credit or Lifetime learning credit**

**Student loan interest or canceled debt (student loan) - interest itemized**

**Coverdell ESA contributions for child under 18**

**Withdrawals from IRAs for education (penalty exception)**

## ITEMIZED DEDUCTIONS EMPLOYEE BUSINESS EXPENSES

### EMPLOYEE EDUCATION EXPENSES

If adjusted gross income exceeds maximum limits, the overall itemized deductions may be further limited \$166,800 (\$83,400 married filing separate) for 2008.

Employee education expenses deductible only as itemized deduction subject to 2% AGI limitation.

Exception: Qualified performing artists may deduct work-related educational expenses even if not itemizing. (Adjusted gross income deduction.)

#### Qualified Education Expenses

Maintains or improves skills in ***current*** job classification

**OR**

Meets new requirements of the employer or law to ***keep*** current job  
(Even if education may lead to a degree)

#### Non Qualified Education

Required to meet ***minimum*** educational requirements to qualify for job trade, or business.

Will lead to qualifying in a ***new*** trade or business even if do not intend to enter the new trade/business.

#### Temporary absence from work

Generally, if absent for one year or less and return to same kind of work education required to return to work qualifies as current job.

#### Specific items of education

Bar or CPA exam review courses to prepare for exam ***not*** deductible

All teaching and related duties are considered the same kind of work

Teacher changes that do ***not*** constitute change to new business:

Elementary to secondary teacher

Teacher of one subject to another subject

Classroom teacher to guidance counselor

Classroom teacher to school administrator

## ITEMIZED DEDUCTIONS

### EMPLOYEE EDUCATION EXPENSES

#### EDUCATIONAL ASSISTANCE PROGRAMS

Exclusion from income of up to \$5,250 of employer-provided educational assistance under a qualified plan.

No Hope Scholarship credit or Lifetime Learning credit available on excluded amounts.

Graduate level courses that began after 6-30-96 do **not** qualify for exclusion.

*Amounts paid or incurred by employer for employee education or training that do not qualify as educational assistance may still be excluded from employee income if (and only if) the expense would have been deductible employee business expense had the employee paid it.*

*Educational assistance payments excluded from income may be reported in box 14 of form W2.*

This program is now a permanent provision. After 12/31/01 it includes graduate-level courses.

#### QUALIFIED EMPLOYEE EDUCATION EXPENSES - SPECIFIC

(If previous requirements are met)

Books  
Tuition  
Supplies  
Lab fees  
Certain travel and transportation  
Correspondence courses  
Tutoring  
Research and typing

#### NON QUALIFIED EXPENSES - SPECIFIC

Expenses of a personal or capital nature.

#### VETERANS EDUCATIONAL ASSISTANCE PAYMENTS

Reduce educational expenses by amounts received for books, tuition, supplies  
Do **not** reduce educational expenses by amounts received for living expenses

## **ITEMIZED DEDUCTIONS**

### **EMPLOYEE BUSINESS EXPENSES**

#### **SCHOLARSHIPS**

Education expenses may **not** include any amount for which non-taxable scholarships are received.

#### **TRANSPORTATION FOR EDUCATION**

See “Auto Expenses” - under employee business expense

#### **TRAVEL EXPENSES FOR EDUCATION**

Allowable - Travel, meals (subject to 50% limit) and lodging if away from home overnight to obtain education.

If **mainly** personal:

**No** deduction for travel

Deduction for meals and lodging only during time spent on educational activity

No deduction for personal activities such as sight-seeing, visiting etc.

(Note: Whether mainly personal or mainly education depends on amount of time spent on each. Log records???)

#### **SPECIAL RULES FOR ‘QUALIFIED MEETING’ - See employee business expense**

#### **TRAVEL EXPENSES AS A FORM OF EDUCATION**

Not deductible even if job related. (i.e. German teacher who travels to Germany to improve knowledge of German)

## ITEMIZED DEDUCTIONS

### EMPLOYEE BUSINESS EXPENSES

#### MISC. ITEMIZED DEDUCTION ONLY

**Exception:** Certain **performing artists or fee basis officials** can claim their employee business expenses whether or not they itemize their other deductions on Sch. A. (Claim as adjusted gross income deduction)

Fee basis officials: employed by **state or local government** and paid **in whole or in part** on fee basis. Deduct expenses as AGI deduction.

#### ACCOUNTING TO EMPLOYER WITH ACCOUNTING PLAN

If adequate accounting, do not need to report reimbursement/expenses

Reimbursement will not be on the W-2 Form.

#### NO ACCOUNTABLE PLAN

Reimbursement is included on W-2 Form and subject to Withholding

Considered un-reimbursed if no accountable plan.

#### PER DIEM

If not more than Federal per diem, adequate accounting is assumed **if actually away from home** for days paid. (See later discussion for per diem rules.)

#### EXCEPTION:

*If related to employer, not allowed to use fixed allowance rules.*

#### OUTSIDE SALESMAN EXPENSES SUBJECT TO SAME LIMITS AS OTHER EMPLOYEES

#### STRICT RECORD-KEEPING AND LOG BOOKS NECESSARY

## **ITEMIZED DEDUCTIONS**

### **EMPLOYEE BUSINESS EXPENSE**

#### **AWAY FROM HOME:**

Substantially longer than an ordinary days work

#### **AND**

Requires rest or sleep

(Not required to be a whole day or from dusk to dawn as long as relief from duty long enough to require rest or sleep.)

#### **TAX HOME:**

Principal place of business regardless of residence location

Can be "away from home" even when living at your residence if job has two locations.

**ITEMIZED DEDUCTIONS**

**EMPLOYEE BUSINESS EXPENSE**

**TEMPORARY JOB ONLY** (for away from home deductions)

**After 1992 and before 1999 rule was:**

If job lasts for more than one year at a single location, the job is **not** considered temporary (regardless of the original expectation of time)

**Exception:** Federal employees who are participating in federal crime investigations are **NOT** subject to the one year rule.

**New definition of temporary work location:**

One or more **regular** place of business away from home and commute to a temporary work location in the **same** trade or business, you can deduct the expenses of the daily round trip transportation between your home and the temporary location.

Realistically expected to last (and does in fact last) for one year or less employment is temporary unless facts and circumstances indicate otherwise.

.....

Realistically expected to last for more than one year or if there is no realistic expectation that the employment will last 1 year or less, the employment is not temporary, regardless of whether it actually last for more than one year.

If employment at a location initially is realistically expected to last more than one year, that employment will be treated as temporary (unless there are facts and circumstances that would indicate otherwise) until expectation changes. Not treated as temporary after the date determined it will last more than one year.

**CAN FILE AMENDED RETURNS FOR OPEN YEARS FOR ANY YEAR THAT IS AFFECTED BY THE CHANGE IN DEFINITION!**

## ITEMIZED DEDUCTIONS

### EMPLOYEE BUSINESS EXPENSE

#### TEMPORARY WORK SITE - NEW DEFINITION (Rev.Rul 94-47)

A location where employment is expected to last one year or less. (See office in home at end of this course)

#### INDEFINITE ASSIGNMENT:

If termination can **not** be foreseen within a short period of time, new location becomes new tax home - **NO** away from home expenses allowed.

#### SERIES OF TEMPORARY ASSIGNMENTS:

If at same location, are indefinite and no deduction for away from home

#### TRANSIENT WORKERS:

Not qualified for away from home if maintain no permanent home.  
Each new job is a new home.

#### COMMUTING EXPENSES

Daily travel costs allowable to temporary work location in same trade or business within the same metropolitan area in which taxpayer lives, as long as the taxpayer has one or more regular work locations.

Daily travel costs to and from taxpayer's home office, which qualifies as his/her **principal** (not merely "regular") place of business. (Rev. Rul 94-47)

#### PRINCIPAL PLACE OF BUSINESS

TRA 97 changed definition - now includes a home office used on a regular and exclusive basis for **management and administrative duties**.

**The changes to definitions of principal place of business and temporary work location greatly affect self employed individuals - particularly auto expenses!!!**

## ITEMIZED DEDUCTIONS

### EMPLOYEE BUSINESS EXPENSE

#### NEW EMPLOYMENT JOB SEARCH:

Travel, meals, lodging qualify if in **same** trade or business.  
(i.e. trips to file union card at different locations for availability)

#### SECOND JOB IN SAME DAY

Costs **one way** from first to second job. Most **direct route**  
Not return home first - direct from job to job)

#### CAR POOLS:

Reimbursement not taxable, expenses non-deductible unless operated for profit

#### HAULING TOOLS/EQUIPMENT:

Considered commuting and **no** deduction **unless** there is **additional**  
expense over and above commuting. (i.e. trailer rental expenses)

#### ADVERTISING DISPLAY ON CAR:

Does not convert personal use to employee business expense

#### TRIPS FROM UNION HALL TO JOB - nondeductible commuting expenses

PARKING FEES - to park at place of work are nondeductible commuting expenses, unless  
employer provided; then, up \$215 per month excluded from income.

MISC. REIMBURSEMENTS: Office expenses and local transportation are **not**  
deductible and reimbursement is **not** taxable.

#### TRANSIT PASSES:

Up to \$110 per month tax free.

## **ITEMIZED DEDUCTIONS**

### **EMPLOYEE BUSINESS EXPENSE**

#### **RETURN HOME (FROM AWAY FROM HOME SITE) ON WEEKENDS**

Allowable **lesser of** travel, to return home or cost to remain at jobsite (meals, lodging, one round trip) (Not meals while at home area)

#### **MILEAGE FROM TEMPORARY AWAY FROM HOME TO JOBSITE**

From temporary living quarters to jobsite & return daily (round trip) are **deductible**.

#### **TEMPORARY OR MINOR ASSIGNMENT**

Beyond general area of regular place of work and return home each evening. May deduct round trip transportation.

#### **ARMED FORCES RESERVISTS**

If meetings **inside** tax home area, non-deductible unless qualified as second job in same day. If meeting **outside** tax home - deductible.

#### **QUALIFIED AWAY FROM HOME EXPENSES:**

Air, Rail, Bus, Auto (see following specifics), Taxi, Baggage charges, Meals and Entertainment (subject to 50% limit) Lodging, Laundry, Operations of house trailers, Telephone, Tips

## **ITEMIZED DEDUCTIONS**

### **EMPLOYEE BUSINESS EXPENSE**

#### **AUTO EXPENSES**

#### **RECORDS REQUIRED:** (Regardless of which method used for expenses)

Cost or basis of auto and "reflected depreciation" for trade-ins

When business use began

Business miles driven each year

Total miles driven each year

If actual expense method, receipts for all expenses

If leased, lease agreement and receipts for all expenses

#### **EMPLOYEE USE OF PERSONAL AUTO**

Only deductible if that use is for convenience of employer  
**and** required as a condition of employment.

*Recent tax court decision allowed travel to timber cutter but  
**only** if the cutter is deemed as a self employed person.*

#### **ACTUAL EXPENSES METHOD**

Includes depreciation based on business percentage of use.

Cars—special limits for depreciation, section 179 expense, special depreciation allowance for new autos placed into service after September 10, 2001 and by December 31, 2004, and investment credit.

## ITEMIZED DEDUCTIONS

### EMPLOYEE BUSINESS EXPENSE

#### AUTO EXPENSES

##### STANDARD MILEAGE METHOD

###### **RATE:**

<b>50 cents per mile for 2010</b>
<b>55 cents per mile for 2009</b>
<b>50.5 cents per mile for 01/01/08 - 06/30/08</b>
<b>58.5 cents per mile for 07/01/08 - 12/31/08</b>
<b>48.5 cents per mile for all business miles for 2007</b>
<b>44.5 cents per mile for all business miles for all of 2006</b>
<b>48.5 cents per mile for all business miles for 8/31 = 12/31/2005</b>
<b>40.5 cents per mile for all business miles for 1-1 = 8/31/2005</b>
<b>37.5 cents per mile for all business miles for 2004</b>
<b>36.5 cents per mile for all business miles for 2002 and 2003.</b>
<b>34.5 cents per mile for all business miles for 2001.</b>
<b>32.5 cents per mile for all business miles for 2000.</b>
<b>31 cents per mile for all business miles from 3-31-99 to 12-31-99</b>

Used **instead of** actual expenses including depreciation.

###### **Election** to use standard mileage rate:

Must elect standard mileage method in **first** year placed in service.

Once chosen for first year, can use actual expenses or standard mileage in future years.

If not chosen in first year, can not use standard mileage in **any** year.

If standard mileage method chosen, considered to have made an election **not** to use ACRS or MACRS and may **not** take section 179 expense.

If choose standard mileage and then switch to actual expenses in a later year, must use straight line depreciation over useful life of auto if not considered fully depreciated at time change is made.

###### Standard mileage rate may **not** be used if:

car was previously depreciated using a method other than SL  
additional first year depreciation was claimed  
taxpayer used ACRS or MACRS under Code Sec. 168.

## ITEMIZED DEDUCTIONS EMPLOYEE AUTO EXPENSES

### RURAL MAIL CARRIER STANDARD MILEAGE

#### Additional rate allowance repealed for years beginning in 1998 and after

Rural mail carrier and received qualified reimbursement - cannot use standard mileage rate.

Rural mail carrier qualified reimbursement may be treated as allowable expense. Reimbursement should not be included in income if under accountable plan and, if not included in income - no deduction allowed.

### FULLY DEPRECIATED AUTO

For cars placed in service after 1979 and **BEFORE 1990**:  
If use standard mileage rate, car considered depreciated after 60,000 miles of **BUSINESS** use on which maximum amount per mile has been deducted (limited to maximum 15,000 per year)

For expenses paid or incurred after Jan. 1, 1990

#### Single rate system applies to ALL business miles.

New rules (Rev., Proc. 89-66) do NOT include the concept of a car's being fully depreciated after 60,000 miles or the application of a lower mileage rate to a fully depreciated car.

#### Standard mileage rate is for ALL business miles even though the car may have been considered fully depreciated in an earlier year.

Depreciation factor considered to have been taken is (cents per mile):

For 2000 - 14	For 2009 - 21
For 2001/2002 - 15	For 2010 - 23
For 2003/2004 - 16	
For 2005/2006 - 17	
For 2007 - 19	
For 2008 - 21	

Considered depreciation does **not** apply to years when **actual** expenses were used. Pre 1990 years the rates are applied only to the first 15,000 miles

#### Will reduce basis of auto upon disposition.

Basis of a vehicle is reduced (**but not below zero**) by the set amount for all miles for which standard mileage rate was used.

## ITEMIZED DEDUCTIONS EMPLOYEE AUTO EXPENSES

### REQUIREMENTS TO USE STANDARD MILEAGE METHOD

Prior to 1998 must own the car (not leased)

**Starting in 1998 may use standard rate even if leased  
but must use it for entire period car is leased.**

Not use the car for hire (taxi)

Not operate a fleet of cars (using more than 4 vehicles at the same time)

A Section 179 deduction has been taken.

Only straight line depreciation has been previously taken on vehicle(s).

Actual expenses claimed in previous year and the vehicle(s) is leased.

Taxpayer is a rural mail carrier and received a qualified reimbursement.

### PARKING FEES AND TOLLS DEDUCTIBLE IN ADDITION TO STANDARD MILEAGE RATE.

#### INTEREST

##### Self employed:

Standard mileage rates do not affect a deduction for interest related to the purchase of the automobile that is allowable under sec. 163. If the auto is operated less than 100% for business an allocation is required. That portion of the allowable deduction for interest and state and local taxes attributable directly to the operation of the automobile for business purposes is deductible from gross income in arriving at adjusted gross income. (Reg. 1.162-1(d))

##### Employee:

After 1990, employees may not deduct any interest paid on a car loan. This is considered personal interest.

### REIMBURSED OR ALLOWANCES RECEIVED

May use standard mileage to compute expenses

If employer excludes reimbursement from income, may deduct only the excess

**Considered reimbursed** or received allowance if:

Receive cash reimbursement

Car expenses are charged to employer

Employer pays any of the expenses for operation of car (i.e. gas)

## ITEMIZED DEDUCTIONS

### EMPLOYEE AUTO EXPENSES

#### FRINGE BENEFITS -FURNISHED AUTO

Generally value of fringe benefits provided by employer are taxable.  
If employer **provides** a car and it is used for commuting/personal use,  
considered a fringe benefit received and taxable.  
Employer must include value of benefit in taxable income.

Parking provided by or paid for by employer is **not** income up to \$230 per month even when employee **can** receive cash in lieu of parking. If employee **elects** cash in lieu of parking, he or she has taxable income

**If employer furnishes fuel, income of employee must be increased by 5 ½ cents per mile or by actual cost of fuel so provided. (For personal use mileage)**  
Bicycle - \$20 per month (month used cannot include other vehicles.)

Taxable value of a vehicle may be determined by:

- Same amount unrelated third party would charge to lease or purchase same vehicle
- Annual lease value rule - tables provided under Reg. L.61-21(d)(2)(B)(iii)
- Cents per mile valuation rule using standard mileage rate
- Commuting valuation - \$1.50 per one-way commute regardless of distance
  - Vehicle must be owned or leased and provided for use in trade/business
  - Employee must be required to commute in the vehicle for bona fide business reasons (non-compensatory business reasons - i.e. safe keeping)
  - Must be a written policy prohibiting personal use other than commuting
  - Employee must comply with written policy
  - Employee cannot be a control employee
  - Control employee:
    - Appointed or elected officer compensation \$50,000 or more
    - Director of the employer
    - Receives compensation of \$100,000 or more
    - Owns 1% or more equity, capital, or profits interest in employer
    - Is an elected government official
    - Is a government employee with compensation at least as much as Federal Executive Level V

## ITEMIZED DEDUCTIONS

### LEASED AUTO EXPENSES

#### LEASED VEHICLE

Can deduct the part of each lease payment that is for the use of the car in business.

Can **not** deduct any part of the lease payment that is for commuting to regular job or for personal use.

Must spread advance payments over entire lease period

Can not deduct lease payments that are actually payments made to purchase the car.

#### LEASE WITH OPTION TO BUY

May be a lease or a purchase contract

Depends on intent

Considerations to determine intent:

Any equity obtained

Any interest paid

Whether fair market value is less than the “lease” payments or option price when option to purchase can be exercised.

#### IF LEASE BUSINESS VEHICLE FOR 30 DAYS OR MORE MUST INCLUDE AN INCLUSION AMOUNT IN GROSS INCOME.

Inclusion amount is a percentage of part of the fair market value of the leased car multiplied by the percentage of business and investment use of the car for the tax year.

Prorated by the number of days of the lease term included in the tax year.

Effectively - adding this amount to income is to limit deduction for lease payments so that it equals depreciation deduction that would have been allowed if car was owned.

#### APPLIES TO EACH TAX YEAR THAT CAR IS LEASED IF FMV VALUE OF THE CAR WHEN THE LEASE BEGAN WAS MORE THAN: (for cars leased after 1986)

\$12,800 leases beginning in 1987 through 1990	2009 - \$18,500.
\$13,400 for leases beginning in 1991	2010 - \$18,500.
\$13,700 for leases beginning in 1992	
\$14,300 for leases beginning in 1993	
\$14,600 for leases beginning in 1994	
\$15,500 for leases beginning in 1995 and 1996	
\$15,800 for leases beginning in 1997 and 1998	
\$15,500 for leases beginning in 1999, 2000, 2001,2002	
\$18,000 for leases beginning in 2003	
\$17,500 for leases beginning in 2004	
\$15,200 for leases beginning in 2005, 2006	
\$15,500 for leases beginning in 2007	
\$18,500 for leases beginning in 2008	

**These amounts are higher for trucks, vans (electric cars higher limits expired - Use same tables as regular Vehicle Tables)**

## ITEMIZED DEDUCTIONS

### LEASED AUTO EXPENSES

#### COMPUTING INCLUSION AMOUNT

Use inclusion tables for year first placed in service (If FMV of car is \$100,000 or less)

Use FMV of the car on the **first day** of the lease term.

For each year:

determine dollar amount from tables

prorate the dollar amount from table for the number of days of the lease term included in the tax year

multiply the prorated amount by the percentage of business use for the tax year.

#### EXAMPLE AUTO INCLUSION AMOUNT

1.	Date of Lease .....	01/17/2010
2.	Term of lease (months) .....	36
3.	Current tax year .....	2010
4.	Fair Market Value .....	\$32,250
5.	Number of days leased in current tax year .....	349
6.	Business/Investment Mileage.....	15,000
7.	Total mileage .....	20,000
8.	Dollar amount from table .....	\$88
9.	Business/Investment Mileage Percentage (Line 6/Line 7).....	75%
10.	Percent of days leased in current tax year 2010 (Line 5/365).....	95.62%
11.	Lease INCLUSION amount for tax year 2010. (Line 8 x Line 9 x Line 10).....	\$63

**ITEMIZED DEDUCTIONS**  
**EMPLOYEE BUSINESS EXPENSE**

**STANDARD MEAL ALLOWANCE**

Standard meal allowance may be used **in lieu of meal receipts** while **away from home** for business purposes. **Meals and entertainment expenses are limited to 50% of the allowable amount. See exception below for DOT workers.**

**AMOUNT IN THE UNITED STATES**

\$52 per day generally - for all of 2006, 2007, 2008, 2009, 2010, 2011  
tables provided by IRS in publication 463.

Effective 10/1/03 certain localities are eligible to use the High/Low Per Diem Method - only in the Continental US and only when lodging is included. Once this method is chosen is must be used for the entire year.

**SPECIAL RATE FOR TRANSPORTATION WORKERS**

“Transportation worker” if work:

1. **Directly** involves moving people or goods by plane, barge bus, ship, train, or truck
2. Regularly requires travel away from home and usually part of each trip is in an area eligible for different standard meal allowances.

**MEALS Special 2006/2007/2008/2009:** \$52 per day U.S. (\$58/day outside U.S.)

For all of 2006, 2007, 2008, 2009, 2010, 2011

**If special rate is used, it must be used for ALL trips for the year.**

**SPECIAL RULE INDIVIDUALS SUBJECT TO “HOURS OF SERVICE” LIMITS.**

Allowable percentage for 2006 and 2007 is 75%  
80% for 2008, 2009, 2010, 2011.

Individuals subject to Dept of Transportation “hours of service” limits includes:

Certain air transportation workers (pilots, crew, dispatchers, mechanics, control tower operators, interstate truck operators and bus drivers who are under DOT regulations)

Certain railroad employees (engineers, conductors, train crews, dispatchers, and control operations personnel) who are under Federal Railroad Administration regulations.

Certain merchant mariners who are under Coast Guard regulations.

## **ITEMIZED DEDUCTIONS**

### **STANDARD MEAL ALLOWANCE**

#### **OUTSIDE CONTINENTAL UNITED STATES**

Alaska, Hawaii and other locations outside the U.S. - Standard Meal Allowance does not apply. Must use Federal Per Diem rates. Per diem rates are available on Internet [www.policyworks.gov/perdiem](http://www.policyworks.gov/perdiem)

Foreign per diem rates at Internet [www.state.gov/www/perdiems](http://www.state.gov/www/perdiems).

Per diem includes meals and lodging.

#### **PROOF IS REQUIRED EVEN IF USING STANDARD ALLOWANCE**

Must still prove time, place and business purpose (log record)

Must still prove actual costs of other expenses (such as lodging)

#### **ACCOUNTING TO EMPLOYER**

If satisfied “accounting to employer” rules, and reimbursed, not subject to the 50% limit and not included on the W2 form.

#### **RELATED TO EMPLOYER**

**May not use standard meal allowance if related to employer.**

(Brother, sister, half brother or sister, spouse, ancestor, or lineal descendent; employer is corporation in which taxpayer owns, directly or indirectly more than 10% of outstanding stock. Certain fiduciary relationships.).

#### **STD. MEAL ALLOWANCE NOT AVAILABLE FOR MEDICAL/ CHARITABLE MEALS.**

#### **BEGINNING AND ENDING OF TRIP**

For both the day travel begins and the day it ends, must prorate the standard meal allowance by one of two methods:

1. Claim 3/4 of standard meal allowance
- or 2. Use any method that can be consistently applied and in accordance with reasonable business practice

## **ITEMIZED DEDUCTIONS**

### **PER DIEM ALLOWANCE**

#### **TYPES OF PER DIEM METHODS**

##### **Can not be used by related parties**

Related includes brothers, sisters, spouse, ancestors, and lineal descendants and individuals who own directly or indirectly more than 10% of stock of a corporate employer.

##### **Meals and incidental expenses only**

Available to employee even if not reimbursed

Available to self employed (independent contractor)

##### **Lodging plus meals and incidental expenses**

Only available to employees if reimbursed by employer

**Not available to self employed individuals**

“Incidentals” include laundry, cleaning and tips

“Incidentals” do **not** include taxis, telegrams, telephone.(deductible in addition to per diem.

Per diem rates can be found in IRS Publication 1542- Rates are updated yearly

May use one of two methods to determine allowance for lodging:

Federal maximum per diem

High low method

Special rates apply to Outside Continental United States, Alaska and Hawaii

## **ITEMIZED DEDUCTIONS** **RECORD KEEPING**

### **DIARY, ACCOUNT BOOK OR SIMILAR RECORD**

#### **SUPPORTING DOCUMENTS**

Do **not** have to record information in account book that duplicates receipts as long as records and receipts complement each other in an orderly manner  
**Not** allowed for approximations or estimates  
**Not** allowed for expenses that are lavish or extravagant

#### **TRAVEL**

**Separate** amounts for transportation or lodging.  
May total daily cost of meals  
Dates left and returned home for each trip and number of days away  
Destination  
Business reason

#### **MEALS AND ENTERTAINMENT**

Separate amounts for expenses  
Date  
Location and type of meal or entertainment (dinner, theater)  
Reason and nature of business discussion or activity  
Occupation or other information about person being entertained  
Taxpayer or employee was present at time of business meal for client

#### **GIFTS**

Cost  
Date of Gift  
Description of gift  
Reason for gift  
Occupation or other information about receiver of gift to establish business relationship.

#### **TRANSPORTATION**

Amount of each separate expense (Cost of car--Lease payments--Maintenance and repairs)  
Mileage for each business or investment use of car or transportation  
Date or expense or use  
Business reason for expense or use

#### **DOCUMENTATION REQUIRED FOR LODGING AND OTHER EXPENSES OVER \$25**

Canceled check by itself is **not** adequate. Must be a **desk** copy of lodging receipt showing name of hotel, location, dates, separate charges for meals and telephone.

## ITEMIZED DEDUCTIONS

### TRAVEL OUTSIDE THE U.S.

#### ENTIRELY BUSINESS PURPOSE

Deduct expenses the same as if **in** the United States

#### PRIMARILY BUSINESS PURPOSE

Divide expenses between business and non business

#### PRIMARILY PERSONAL (Vacation or investment purposes)

**Entire** cost **non** deductible for the **TRIP**

Registration fees and other expenses **directly** connected to business part of the trip **are** deductible.

#### TRAVEL CONSIDERED ENTIRELY FOR BUSINESS

**EMPLOYEE** and

Not related to the employer

Not managing executive

**Did** receive travel expense allowance

No substantial control over arranging the trip

(Self employed individual is generally regarded as **having** control)

Outside the U.S. a week or less (combined business and non business)

(Do **not** count the day you leave the U. S., but **do** count return day)

Spent less than 25% of total time outside the U.S. in non business activities even if more than one week. (Count both day trip began and the day it ended)

Can establish that a personal vacation was **not** a major consideration.

#### FOREIGN CONVENTIONS

May **not** deduct cost of convention, seminar, or similar meeting held outside **North America area** or **Jamaica unless** meeting is directly related to trade or business and it is reasonable to hold the meeting outside the N.A. area or Jamaica.

## **ITEMIZED DEDUCTIONS**

### **TRAVEL OUTSIDE THE U.S**

#### **LUXURY WATER TRAVEL DEDUCTION LIMITED**

Travel by ocean liner, cruise ship or other form of Luxury water transportation  
- Deduction limited to:

Twice the amount allowable for per diem per day to employees of executive branch of the U. S. Government while away from home but serving in the U.S.

#### **TIMES**

number of days of luxury water travel

If cost includes separately stated meals/entertainment, these amounts are reduced by 50%. If **not** separately stated, not required to allocate unless clearly identifiable.

#### **LIMITS NOT APPLICABLE TO:**

Conventions, seminars, other meetings held **on** a **cruise** ship.

These expenses are **wholly denied** (non deductible) unless they are held on a U.S. flagship and all ports of call are U.S. or its possessions, deduction is limited to \$2,000 per individual

Expenses treated as compensation to employees or otherwise included in income of recipient (deductible by employer)

Reimbursed expenses where services are performed for an employer and employer has not treated the reimbursement as compensation.

Expenses for recreational or social activities primarily for benefit of employees

Services and facilities which are made available by taxpayer to general public

Services and facilities which are sold to customers.

## ITEMIZED DEDUCTIONS

### EMPLOYEE BUSINESS EXPENSE

#### INVESTMENT SEMINARS

Deduction is **barred** for **ALL** expenses, including travel, seminar fees, meals and lodging to attend **investment** seminars.

(Does not apply to seminars or meetings relating to **trade** or **business** activities)

#### IMPAIRMENT RELATED WORK EXPENSES

Miscellaneous itemized deduction **not** subject to 2% floor.

For Self employed individuals - deductible on Schedule C -

Expenses include - expenses incurred because of handicap or disability in order to be able to work.

Cost of attendant care expenses at place of work  
Cost of a reader

If away from home on business:

Expenses included on form 2106 to extent they are impairment related are not subject to 2% floor.

## ITEMIZED DEDUCTIONS

### MISCELLANEOUS ITEMIZED DEDUCTIONS SUBJECT TO 2% LIMITS

#### Work Clothes and Uniforms:

Deductible cost and upkeep of special equipment  
If **required and not suitable for everyday use** (Both conditions)  
Ballplayer, firefighter, police officer, letter carrier, nurse, jockey

#### Armed Forces Uniforms:

Full time active duty - generally NON deductible  
Reservist - un-reimbursed cost deductible if restricted to on duty use.  
Armed forces academy - student - NON deductible if uniform replaces regular clothing

#### Musicians and Entertainers:

**Deductible** clothing and accessories **if not suitable for ordinary use**

#### Painters:

Non deductible work clothing and standard work shoes even though union requires certain clothing.

#### Protective Clothing:

Deductible safety shoes, glasses, hard hats, gloves

#### Home computers:

If used in home for convenience of employer as a **condition of employment** depreciation is allowed  
If more than 50% business - Accelerated depreciation and Section 179 allowed.

## USE OF HOME FOR OFFICE

### REGULAR AND EXCLUSIVE USE TEST

A part of the personal residence must be used **regularly and exclusively** for business

**As principal place of business for any trade or business**

**or**

**As a place to meet and deal with clients, patients, customers**

Patients, clients or customers must be physically present on the premises  
Telephone conversations do not qualify  
Use must be substantial and integral to conduct of taxpayer's business.  
Occasional meetings are not sufficient

**or**

**A separate structure used in trade or business**

**The structure does not have to be the taxpayer's principal place of business or the place taxpayer meets patients, clients, or customers.**

Can **not** deduct use of home for **investment** ventures

If use of home for a profit -seeking activity that is **not** a trade or **business**, no deduction is allowed for office.

### EXCLUSIVE USE

If used for **both** personal and business - no deduction  
(Use of den for business **and** personal use - no deduction)

Deductions allowed only if **each** business use satisfies the exclusive use test.

Example: Office used by independent contract who is also an employe of another business. The employer provided taxpayer with an office and did not require him to have an office at home as a condition of employment. Exclusive use test **not** met with respect to this activity.  
**result: no deduction for the office.**

### EXCEPTIONS TO EXCLUSIVE USE TEST

Storage Space **if:**

keep inventory for use in trade or business  
trade/business is wholesale or resale selling of products  
home is only fixed location of trade/business  
storage space used on a regular basis  
space used is separately identifiable space suitable for storage

## USE OF HOME FOR OFFICE

### EXCEPTIONS TO EXCLUSIVE USE TEST

#### DAY CARE CENTER IN HOME

Used on a REGULAR basis

Used in trade or business of providing day care for:

Children

Persons 65 or older

Persons who are physically or mentally unable to care for themselves.

Must have applied for, been granted, or be exempt from having a license, certificate, registration or approval as a day care center or as a family or group daycare home under applicable state law.

Substantiated preparation and cleanup time before or after the day care recipients are present in the home is to be included in the total hours of the day care activity.

(Rev. Ruling example ½ hour before and after)

(Neilson v comm 94TC 1(1990) allowed 2 hour morning preparation time and 1 hour clean up time each day)

#### ALLOCATIONS DAY CARE CENTER

If use is **not** exclusive, must compute what part of available **time** is actually used for business.

A room that is **available** for use throughout each business day **and** regularly used for business is considered to be used for day care throughout each business day.

No records required to show specific hours the area was used

May use the area occasionally for personal reasons.

A room used only **occasionally** for business does **not** qualify for a deduction.

Compare hours of business use to total time that part of home can be used for **all** purposes, using 168 hours per week or 8,760 hours per year.

## **USE OF HOME FOR OFFICE**

### **LIMITATIONS AND CARRYOVERS**

Deduction for use of home for business is limited to **GROSS** income from the trade or business. Deductions are taken in the following order:

1. Business percentage of expenses that would otherwise be deductible (mortgage interest, real estate taxes, casualty losses)
2. Direct expenses for the business (supplies etc)
3. Other use of home expenses (repairs, maintenance, utilities, insurance, and depreciation).

### **CARRY FORWARD (NOT BACK) EXCESS EXPENSES BECAUSE OF LIMITATION**

#### **CAUTION**

Taxpayers may consider avoiding claiming the office in home deductions in situations where those taxpayers anticipate selling the residence.

Watch out for “allowed or allowable” - **disqualify the office**

## **USE OF HOME FOR OFFICE**

### **DEFINITION OF PRINCIPAL PLACE OF BUSINESS UNDER REGULAR AND EXCLUSIVE USE TEST.**

Taxpayer is deemed to have a principal place of business for **each** trade or business in which the taxpayer engages.

#### **Soliman Case 1-12-93**

#### **Decision was made by comparing two primary factors:**

Relative importance of the activities performed at each location depending on characteristics of each business place where contact with patients or delivery of goods occurs must be given great weight in determining where the most important activities are performed

Performance of necessary or essential activities in home office (such as planning for services or delivery or accounting or billing for such) is **not** controlling.

Amount of time spent at each location

Comparison of time spent on business at home office with time spent on business at other locations.

#### **Results of Soliman Case**

Individuals such as contractors who earn most of their money and spend most of their time on a job site were deemed to have no office in home deduction. The greatest impact of this — no vehicle expense to job sites since to and from job site each day was deemed to be commuting. Deductions for transportation costs between home and a temporary work location are allowed only if:

- OR
1. There is a **regular** work location **outside** of the home
  2. Principal place of business is the home

**(See next page for TRA 97 repeal of Soliman Case)**

## **USE OF HOME FOR OFFICE**

**Repeal of Soliman Case IRC Sec 280A(c)(1)**

**EFFECTIVE DATE JANUARY 1, 1999**

TRA 97 expanded the **definition of “principal place of business.**

TRA 97 **retains all other rules** related to home office deductions (regular and exclusive use, storage of inventory, separate structure, place to meet clients, patients, or customers).

### **New definition of “Principal place of business”:**

1. Office used by taxpayer on an exclusive or regular basis for the administration or management activities of any trade or business of the taxpayer.

#### **AND**

2. There is no fixed location of the trade or business where the taxpayer conducts substantial administrative or management activities of the trade or business

#### **Important reflections:**

The above will apply even if administrative or management activities connected with the trade or business are performed by **others** at **other** locations. (As long as the **TAXPAYER** does not conduct such procedures at another location.)

Administrative activities at sites that are not fixed locations (i.e. motel room) do not disqualify the office at home.

**Some** administrative activities at another **fixed** location by the taxpayer will not disqualify the use of home for office as long as they are not **substantial**.

Taxpayers eligibility for home office deduction will not be affected by **non** administrative activities at a fixed location of the business outside the home (meeting with clients at a fixed location outside the home)

Even if an office away from home is available to a taxpayer, but he chooses to perform substantial administrative or management activities at home, the second part of the test will be satisfied. (But see below for employees.)

**Much more relaxed rules.**

**“Convenience of the employer” test still applies to employees**

For additional study of ‘Office in the Home’ see: IRS Publication 587, ‘Business Use of Your Home.