

Note: Starting Tax Year 2018, federal tax changes eliminated deductions for employee business expenses and I no longer can deduct the over \$16,000 I spend each year on legislative travel, office supplies, postage, etc. as discussed below. The change increased my federal and state income taxes by over \$5,000.

March 8, 2016 speech to House of Delegates:

Ladies and Gentlemen of the House, it's tax time. It is my sincere hope that some of you – maybe even many of you – will find some benefit in what I am about to share, based on my having recently come out clean as a whistle from a IRS audit of my legislative business expenses. The only problem was convincing IRS that you and I pay taxes on our Office Expenses Reimbursement.

Ever since I entered the House, I've followed the best I could the Va. Society of CPAs booklet provided to us each year: "A Legislator's Tax Guide." I remember the first time I looked through it, how surprise I was at what's regarded as a legitimate business expense in fulfilling our role as a legislator.

As you know, we get \$1,250 each month to cover such expenses. Let me say again what I said in the beginning: Taxes are withheld from this monthly payment, because if it isn't spent on expenses related to serving your constituents or to fulfilling your role as a legislator, it is taxable income. To the degree, however, that you chose to keep track of your legislative expenses, most if not all can be claimed as an employee business expense and therefore a tax deduction.

In my case, every year, my deductions for out-of-session legislative expenses always have exceeded the \$15,000 before taxes amount we receive to pay for those expenses. The result of taking these deductions is about a \$4,000 federal tax savings at our family's income level. However, to retrieve the taxes you've paid on this non-accountable office expenses reimbursement, you must be prepared to do 3 things:

- (1) You and your aide must make a relatively small effort to keep your receipts. (Here is my basic folder where we unceremoniously throw everything during the year.) It documents those frequent outlays for paper, toner, stamps, notebooks, parking fees, etc., etc.
- (2) You must have your calendar set-up in such a way that it can be saved so that you will have proof of your activities – especially your out-of-session mileage, which for me is over 5,000 miles a year. The calendar set-up that I use is an Excel spreadsheet, which works well to schedule everything in, as well as for totaling things up at tax time
- (3) It will take 4-6 hours each year to organize those records, including computing your mileage to places you don't normally go using Google maps. You or your tax preparer will then fill-out a form 2106 - Employee Business Expenses. This is what it looks like, but, of course, I fill it out on Turbo Tax.

Everything I just said was going to be covered as a part of a seminar session for members after crossover. Unfortunately, the best person from the Va Society of CPAs for such a seminar was not available before we adjourn, but she promises to help conduct such a session sometime next January before the tax season rush for CPAs.

Meanwhile, Freshmen, start keeping your records, and next January, you'll get a walk-through on what is appropriate to deduct and be able to ask your questions. For the rest of us, may I share my perspective:

1. Everything we touch can be placed in one or more of 4 buckets:

- personal
- campaign
- legislative and/or
- what must be reported on our Financial Disclosure Statement

There are grey areas between all of these. It's not always a slam-dunk decision. My gut-check has always been to take ten-steps back if I feel I'm even close to the line. I offer that rule of thumb to you as a way to survive an audit when the size of our routine employee business expenses don't match the normal IRS profile.

2. The Va Society of CPAs Tax Guide is your most basic defense that you've acted in good faith based on what it contains.

3. I would recommend an 80:20 rule for expenditures made outside of an active campaign that might have campaign benefit. We run every 2 years and 20% of 2 years is almost 5 months. So, I split the annual fees I pay 80:20 between a legislative expense and a campaign expense for things like my bulkmail permit, web hosting, computer security, and voter files, as well as the cost of a new printer or computer. My newsletter is non-partisan, but any that I send outside my district, I treat as a campaign expense. As far as supplies used during a campaign, I find it easier to just treat all purchases during that time period as campaign expenses rather than pro-rate them.

4. As far as, the split between the rest of my life and my legislative life, again, I recommend staying well-back from the line. My legislative office is in my home, but there's no way I would want to take-on the IRS challenge of claiming a home office. Therefore, my \$15,000+ per year in legislative expenses, does not include rent and utilities; however, I do apportion phone and internet access. Obviously, each of our office set-ups is different.

That's enough for now. Bottom line: Whether you keep track of it or not, the bulk of the \$15,000 you receive for legislative district expenses will, in fact, be needed to serve your constituents and to be an accessible and informed legislator. You can chose to also pay \$4,000 additional in taxes ... a decision I would fully understand if you don't have the time or the focus for the basic elements I've outlined. This is true whether you prepare your tax return or you sign your taxpreparer's work based on your input. Whatever you do, heads-up ... or as the Sergeant used to say on Hill Street Blues, "Be careful out there."