

## News from Senator

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### IRS TAX FACT SHEET

The attached informational fact sheet on IRS guidelines on business expense deductions for Congressional members was researched and prepared by the Senate Finance Committee and the Joint Committee on Taxation.

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## United States Senate

COMMITTEE ON FINANCE

WASHINGTON, D.C. 20510

February 1, 1982

ROBERT E. LIGHTHIZER, CHIEF COUNSEL  
MICHAEL STERN, MINORITY STAFF DIRECTOR

There has been considerable attention given to the changes made toward the end of last session concerning the business expense deduction for Members. To help correct any misunderstanding, I have had the attached fact sheet prepared for your information.

A brief explanation of what occurred may be helpful to you. Two related legislative changes were made with respect to Members' business deductions. First, on October 1, in the continuing appropriation, we removed the \$3,000 limitation on the amount of Member's living expenses that can be deducted. The \$3,000 limit was enacted in 1953 when Members were paid \$15,000 per year.

Members are unique among businessmen in that their long months away from their home States require complicated recordkeeping and difficult and often arbitrary allocations between business expenses and expenses connected with personal or family use. Second, to reduce these problems and to limit the possibility of excessive deductions, an amendment on December 16, 1981 to the Black Lung Bill, instructed the Internal Revenue Service to promulgate a regulation that would set a flat dollars-per-day deduction amount that could be taken without complicated records or allocations. The Service has decided that \$50 per day in session (\$75 in some cases) is the appropriate and reasonable amount.

I should point out that this change should not reduce any Member's taxes to zero. Indeed the \$50 figure would amount to about \$13,000 in deductions last year--about \$10,000 more than the \$3,000 limit. This could reduce Members' taxes somewhere between \$3,000 and \$5,000.

Finally a few statistics may be helpful:

1. There has been no adjustment in the \$3,000 limit since 1952.
2. The Consumer Price Index has increased by 320% during this period. (Economic Report of the President 1981)

3. Housing costs alone have increased in Washington by 400% since 1953. (Bureau of Labor Statistics)

4. Under prior law, a Member was permitted a deduction of up to \$3,000 in "living expenses," plus other business expenses. So in reality more than \$3,000 could have been deducted. Under the new law the flat figure would apply to all business expenses.

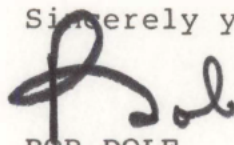
5. Federal Government employees receive a minimum of \$50 and up to \$75 per day for a business trip to Washington. GSA reported in November that to reflect current costs that figure should increase to \$123.75.

6. State legislators can deduct up to 110% of Federal per diem plus interest and taxes for every day in session. This is substantially more than the flat figure for Members of Congress.

7. The Member's expense substantiation rule is similar to the business expense rule applicable to other businessmen. Under current law, the IRS does not require any other businessman to substantiate reimbursed expenses up to the amount of the Federal per diem if the employer limits the reimbursement to ordinary and necessary expenses.

I hope this information is useful.

Sincerely yours,

A handwritten signature in dark ink, appearing to be "Bob Dole", written in a cursive style.

BOB DOLE  
Chairman

Attachment



## BUSINESS EXPENSE DEDUCTION BY MEMBERS

### Prior Law

- o Under section 162 of the Internal Revenue Code, a Member's congressional district is considered his tax home; however, a Member was only permitted to deduct for income tax purposes up to \$3,000 of "living expenses" incurred.

### Two Changes Enacted Last Session

- o In the continuing appropriation bill enacted on October 1, 1981 the \$3,000 limitation on the amount of living expenses a Member can deduct was repealed.
- o One of the floor amendments to the Black Lung tax bill adopted on December 16, 1981 directed the Treasury Secretary to determine a flat amount that Members could deduct for reasonable and appropriate business expenses. Such a flat amount can be taken in lieu of deducting the full amount of business expenses incurred. The IRS issued regulations determining that either \$75 each day Congress is in session, or \$50 per day Congress is in session plus interest and taxes on a Washington home is a reasonable deductible amount.

### 1. Removing the \$3,000 cap on Member's Business Expenses

- o The fundamental question presented by lifting the \$3,000 cap is whether Members of Congress should be treated like other businessmen who are required to be away from home to earn a living.
- o No other group of businessmen is subject to an arbitrary limit on the amount of business expenses that can be deducted. Moreover, all businessmen can deduct their living costs (so long as they are not lavish or extravagant) when they are away from home overnight.
- o The \$3,000 cap was thirty years out of date. In 1953 when the \$3,000 cap was first imposed, Members were allowed to deduct up to 20 percent of their \$15,000 salary as living expenses.
- o Since 1953 Members' salaries have been increased fourfold, but the \$3,000 cap remained unchanged.

- o In the last three decades, the Consumer Price Index has increased 320%. (Economic Report of the President 1981.) Housing costs in Washington have increased 400% over that same period. (Bureau of Labor Statistics)

## 2. Treasury Sets Flat Amount Business Expenses for Members

- o Like all businessmen, Members are only permitted to deduct as a business expense their own living expenses when away from their district, and not the expenses of their families.
- o Without a simple rule-of-thumb, Members would be required to make complex allocations between their business expenses and the personal expenses of the Members's family. For example, an allocation would have to be made for each item of furniture, all groceries, and heating and other utility expenses. Members would also be required to determine what portion of their homes are used by them and what portion is used by their family. The same allocation would have to be made for the family car and for anything else used by the Member and his family.
- o The flat amount that the Treasury set is similar in nature to the IRS optional State sales tax tables and other standardized deductions that eliminate recordkeeping complexity.
- o The rule-of-thumb allowing Members to deduct either \$75 a day or \$50 a day plus interest and taxes on their Washington residence will, in fact, limit the amount of deductible expenses. For instance, in 1981 a Member who uses the \$50 rule will be able to deduct \$12,750. This amount could easily be exceeded if a Member kept the intricate records required even if he owned a very modest home in Washington.
- o Contrary to press reports, a Member using this rule could not come close to eliminating his Federal tax liability. The \$12,750 deduction produced by the rule-of-thumb is less than \$10,000 over the \$3,000 limit in prior law. This deduction would reduce Members' taxes somewhere between \$3,000 and \$5,000.
- o Federal Government employees receive a minimum of \$50 and up to \$75 per day for a business trip to Washington. GSA reported in November that to reflect current costs that figure should be increased to \$123.75.

- o State legislators can deduct up to 110% of the Federal per diem plus interest and taxes for every day in session. This is substantially more than the flat figure for Members of Congress.
- o The Member's expense substantiation rule is similar to business expense rule applicable to other businessmen. Under current law, the IRS does not require any other businessman to substantiate reimbursed expenses up to the amount of the Federal per diem if the employer limits the reimbursement to ordinary and necessary expenses.