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# Miscellaneous Deductions

For use in preparing  
**2005** Returns



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## Reminders

**Limit on itemized deductions.** For 2005, if your adjusted gross income is more than \$145,950 (\$72,975 if married filing separately), you may have to reduce the amount of certain itemized deductions, including most miscellaneous deductions. For more information and a worksheet, see the instructions for Schedule A (Form 1040), line 28.

**Photographs of missing children.** The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

## Introduction

This publication explains which expenses you can claim as miscellaneous itemized deductions on Schedule A (Form 1040). You must reduce the total of most miscellaneous itemized deductions by 2% of your adjusted gross income. This publication covers the following topics.

- Deductions subject to the 2% limit.
- Deductions not subject to the 2% limit.
- Expenses you cannot deduct.
- How to report your deductions.



You must keep records to verify your deductions. You should keep receipts, canceled checks, substitute checks, financial account statements, and other documentary evidence. For more information on recordkeeping, see Publication 552, Recordkeeping for Individuals.

**Comments and suggestions.** We welcome your comments about this publication and your suggestions for future editions.

You can write to us at the following address:

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Individual Forms and Publications Branch  
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We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at [\\*taxforms@irs.gov](mailto:*taxforms@irs.gov). (The asterisk must be included in the address.) Please put "Publications Comment" on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

**Tax questions.** If you have a tax question, visit [www.irs.gov](http://www.irs.gov) or call 1-800-829-1040. We cannot answer tax questions at either of the addresses listed above.

**Ordering forms and publications.** Visit [www.irs.gov/formspubs](http://www.irs.gov/formspubs) to download forms and publications, call 1-800-829-3676, or write to the National Distribution Center at the address shown under *How To Get Tax Help* in the back of this publication.

## Useful Items

You may want to see:

### Publication

- 463** Travel, Entertainment, Gift, and Car Expenses
- 525** Taxable and Nontaxable Income
- 535** Business Expenses
- 587** Business Use of Your Home (Including Use by Daycare Providers)
- 946** How To Depreciate Property

### Form (and Instructions)

- 2106** Employee Business Expenses
- 2106-EZ** Unreimbursed Employee Business Expenses

See *How To Get Tax Help* near the end of this publication for information about getting these publications and forms.

## Deductions Subject to the 2% Limit

You can deduct certain expenses as miscellaneous itemized deductions on Schedule A (Form 1040). You can claim the amount of expenses that is more than 2% of your adjusted gross income. You figure your deduction on Schedule A by subtracting 2% of your adjusted gross income from the total amount of these expenses. Your adjusted gross income is the amount on Form 1040, line 38.

Generally, you apply the 2% limit after you apply any other deduction limit. For example, you apply the 50% (or 70%) limit on business-related meals and entertainment (discussed later under *Travel, Transportation, Meal, Entertainment, and Gift Expenses*) before you apply the 2% limit.

Deductions subject to the 2% limit are discussed in the three categories in which you report them on Schedule A:

- Unreimbursed employee expenses (line 20).
- Tax preparation fees (line 21).
- Other expenses (line 22).

**Exceptions to 2% limit.** The following paragraphs describe certain employee business expenses that are not subject to the 2% limit. Certain legal fees not subject to the 2% limit are also discussed.

**Armed Forces reservists.** If you are a member of a reserve component of the Armed Forces of the United States, and you travel more than 100 miles away from home in connection with your performance of services as a member of the reserves, you may be able to deduct some of your reserve-related travel costs as an adjustment to gross income rather than as an itemized deduction. For more information, see *Armed Forces Reservists Traveling More Than 100 Miles From Home*, under *Deductions Not Subject to the 2% Limit*, later.

**Educators.** If you were an eligible educator in 2005, you can deduct up to \$250 of qualified expenses you paid in 2005 as an adjustment to income rather than as an itemized deduction. See *Educator Expenses*, under *Deductions Not Subject to the 2% Limit*, later.

**Impairment-related work expenses.** If you have a physical or mental disability, certain expenses you incur that allow you to work may not be subject to the 2% limit. See *Impairment-Related Work Expenses* under *Deductions Not Subject to the 2% Limit*, later.

**Performing artists.** If you are a qualified performing artist, you may be able to deduct your employee business expenses as an adjustment to income rather than as a miscellaneous itemized deduction. See *Performing Artists* under *Deductions Not Subject to the 2% Limit*, later.

**State and local government officials paid on a fee basis.** If you performed services as an employee of a state or local government and you were paid in whole or in

part on a fee basis, you can claim your trade or business expenses in performing those services as an adjustment to income, rather than as a miscellaneous deduction. See *Officials Paid on a Fee Basis* under *Deductions Not Subject to the 2% Limit*, later.

**Unlawful discrimination claims legal fees.** You may be able to deduct attorney fees and court costs for actions involving a claim of unlawful discrimination, a claim against the U. S. Government, or a claim made under section 1862(b)(3)(A) of the Social Security Act as an adjustment to income on Form 1040, line 36, rather than as a miscellaneous itemized deduction. See *Legal Expenses* under *Other Expenses*, later.

## Unreimbursed Employee Expenses

You can deduct only unreimbursed employee expenses that are:

1. Paid or incurred during your tax year,
2. For carrying on your trade or business of being an employee, and
3. Ordinary and necessary.

An expense is ordinary if it is common and accepted in your trade, business, or profession. An expense is necessary if it is appropriate and helpful to your business. An expense does not have to be required to be considered necessary.

You may be able to deduct the following items as unreimbursed employee expenses.

- Business bad debt of an employee.
- Business liability insurance premiums.
- Damages paid to a former employer for breach of an employment contract.
- Depreciation on a computer or cellular telephone your employer requires you to use in your work.
- Dues to a chamber of commerce if membership helps you do your job.
- Dues to professional societies.
- Education that is work related.
- Educator expenses that are more than you can deduct on Form 1040, line 23.
- Home office or part of your home used regularly and exclusively in your work.
- Job search expenses in your present occupation.
- Laboratory breakage fees.
- Legal fees related to your job.
- Licenses and regulatory fees.
- Malpractice insurance premiums.
- Medical examinations required by an employer.
- Occupational taxes.

- Passport for a business trip.
- Repayment of an income aid payment received under an employer's plan.
- Research expenses of a college professor.
- Rural mail carriers' vehicle expenses.
- Subscriptions to professional journals and trade magazines related to your work.
- Tools and supplies used in your work.
- Travel, transportation, entertainment, and gift expenses related to your work.
- Union dues and expenses.
- Work clothes and uniforms if required and not suitable for everyday use.

## Business Bad Debt

A business bad debt is a loss from a debt created or acquired in your trade or business. Any other worthless debt is a business bad debt only if there is a very close relationship between the debt and your trade or business when the debt becomes worthless.

A debt has a very close relationship to your trade or business of being an employee if your main motive for incurring the debt is a business reason.

**Example.** You make a bona fide loan to the corporation you work for. It fails to pay you back. You had to make the loan in order to keep your job. You have a business bad debt as an employee.

**More information.** For more information on business bad debts, see chapter 11 in Publication 535. For information on nonbusiness bad debts, see chapter 4 in Publication 550, *Investment Income and Expenses*.

## Business Liability Insurance

You can deduct insurance premiums you paid for protection against personal liability for wrongful acts on the job.

## Damages for Breach of Employment Contract

If you break an employment contract, you can deduct damages you pay your former employer if the damages are attributable to the pay you received from that employer.

## Depreciation on Computers or Cellular Telephones

You can claim a depreciation deduction for a computer or cellular telephone that you use in your work as an employee if its use is:

1. For the convenience of your employer, and

2. Required as a condition of your employment.

**For the convenience of your employer.** This means that your use of the computer or cellular telephone is for a substantial business reason of your employer. You must consider all facts in making this determination. Use of your computer or cellular phone during your regular working hours to carry on your employer's business is generally for the convenience of your employer.

**Required as a condition of your employment.** This means that you cannot properly perform your duties without the computer or cellular telephone. Whether you can properly perform your duties without it depends on all the facts and circumstances. It is not necessary that your employer explicitly requires you to use your computer or cellular telephone. But neither is it enough that your employer merely states that your use of the item is a condition of your employment.

**Example.** You are an engineer with an engineering firm. You occasionally take work home at night rather than work late at the office. You own and use a computer that is similar to the one you use at the office to complete your work at home. Since your use of the computer is not for the convenience of your employer and is not required as a condition of your employment, you cannot claim a depreciation deduction for it.

**Which depreciation method to use.** The depreciation method you use depends on whether you meet the more-than-50%-use test.

**More-than-50%-use test met.** You meet this test if you use the computer or cellular telephone more than 50% in your work. If you meet this test, you can claim accelerated depreciation under the General Depreciation System (GDS). In addition, you may be able to take the section 179 deduction for the year you place the item in service.

**More-than-50%-use test not met.** If you do not meet the more-than-50%-use test, you are limited to the straight line method of depreciation under the Alternative Depreciation System (ADS). You also cannot claim the section 179 deduction. (But if you use your computer in a home office, see the exception below.)

**Investment use.** Your use of a computer or cellular telephone in connection with investments (described later under *Other Expenses*) does not count as use in your work. However, you can combine your investment use with your work use in figuring your depreciation deduction.

**Exception for computer used in a home office.** The more-than-50%-use test does not apply to a computer used only in a part of your home that meets the requirements described later under *Home Office*. You can claim accelerated depreciation using GDS for a computer used in a qualifying home office, even if you do not use it more than 50% in your work. You also may be able to take a section 179 deduction for the year you place the computer in service.

**More information.** For more information on depreciation and the section 179 deduction for computers and other

items used in a home office, see *Business Furniture and Equipment* in Publication 587. Also see chapter 5 of Publication 946. Publication 946 has detailed information about the section 179 deduction and depreciation deductions using GDS and ADS.

**Reporting your depreciation deduction.** Use Part V of Form 4562, Depreciation and Amortization, to claim the depreciation deduction for a cellular telephone or for a computer that you did not use only in your home office. Complete Form 4562, Part I, if you are claiming a section 179 deduction. However, if you file Form 2106 or 2106-EZ, claim your depreciation deduction on that form and not on Form 4562.

**Computer used in a home office.** Use Form 4562, Part III, to claim the depreciation deduction for a computer you placed in service during 2005 and used only in your home office. Complete Form 4562, Part I, if you are claiming a section 179 deduction.

Do not use Form 4562 to claim the depreciation deduction for a computer you placed in service before 2005 and used only in your home office, unless you are otherwise required to file Form 4562. Instead, report the depreciation directly on the appropriate form. (See *How To Report*, later.) But if you are otherwise required to file Form 4562, report the depreciation in Part III, line 17.



You must keep records to prove your percentage of business and investment use.

## Dues to Chambers of Commerce and Professional Societies

You may be able to deduct dues paid to professional organizations (such as bar associations and medical associations) and to chambers of commerce and similar organizations, if membership helps you carry out the duties of your job. Similar organizations include:

- Boards of trade,
- Business leagues,
- Civic or public service organizations,
- Real estate boards, and
- Trade associations.

You cannot deduct dues paid to an organization if one of its main purposes is to:

1. Conduct entertainment activities for members or their guests, or
2. Provide members or their guests with access to entertainment facilities.

Dues paid to airline, hotel, and luncheon clubs are not deductible. See *Club Dues* under *Nondeductible Expenses*, later.

**Lobbying and political activities.** You may not be able to deduct that part of your dues that is for certain lobbying

and political activities. See *Lobbying Expenses* under *Non-deductible Expenses*, later.

## Education That Is Work-Related

You can deduct expenses you have for education, even if the education may lead to a degree, if the education meets at least one of the following two tests.

1. It maintains or improves skills required in your present work.
2. It is required by your employer or the law to keep your salary, status, or job, and the requirement serves a business purpose of your employer.

If your education meets either of these tests, you can deduct expenses for tuition, books, supplies, laboratory fees, and similar items, and certain transportation costs.

You cannot deduct expenses you have for education, even though one or both of the preceding tests are met, if the education:

1. Is needed to meet the minimum educational requirements to qualify you in your work or business, or
2. Will lead to qualifying you in a new trade or business.

If the education qualifies you for a new trade or business, you cannot deduct the educational expenses even if you do not intend to enter that trade or business.

**Travel as education.** You cannot deduct the cost of travel that in itself constitutes a form of education. For example, a French teacher who travels to France to maintain general familiarity with the French language and culture cannot deduct the cost of the trip as an educational expense.

**More information.** See chapter 12 of Publication 970 for a complete discussion of the deduction for work-related education expenses.

## Educator Expenses Over Limit

If you were an educator in 2005 and you had qualified expenses that were more than you can deduct on Form 1040, line 23, you can deduct the rest as an itemized deduction subject to the 2% limit. See *Educator Expenses*, later.

## Home Office

If you use a part of your home regularly and exclusively for business purposes, you may be able to deduct a part of the operating expenses and depreciation of your home.

You can claim this deduction for the business use of a part of your home only if you use that part of your home regularly and exclusively:

1. As your principal place of business for any trade or business,

2. As a place to meet or deal with your patients, clients, or customers in the normal course of your trade or business, or
3. In the case of a separate structure not attached to your home, in connection with your trade or business.

The regular and exclusive business use must be for the convenience of your employer and not just appropriate and helpful in your job.

**Principal place of business.** If you have more than one place of business, the business part of your home is your principal place of business if:

1. You use it regularly and exclusively for administrative or management activities of your trade or business, and
2. You have no other fixed location where you conduct substantial administrative or management activities of your trade or business.

Otherwise, the location of your principal place of business generally depends on the relative importance of the activities performed at each location and the time spent at each location.



You should keep records that will give the information needed to figure the deduction according to these rules. Also keep canceled checks, substitute checks, or account statements and receipts of the expenses paid to prove the deductions you claim.

**More information.** See Publication 587 for more detailed information and a worksheet for figuring the deduction.

## Job Search Expenses

You can deduct certain expenses you have in looking for a new job in your present occupation, even if you do not get a new job. You cannot deduct these expenses if:

1. You are looking for a job in a new occupation,
2. There was a substantial break between the ending of your last job and your looking for a new one, or
3. You are looking for a job for the first time.

**Employment and outplacement agency fees.** You can deduct employment and outplacement agency fees you pay in looking for a new job in your present occupation.

**Employer pays you back.** If, in a later year, your employer pays you back for employment agency fees, you must include the amount you receive in your gross income up to the amount of your tax benefit in the earlier year. See *Recoveries* in Publication 525.

**Employer pays the employment agency.** If your employer pays the fees directly to the employment agency and you are not responsible for them, you do not include them in your gross income.

**Résumé.** You can deduct amounts you spend for preparing and mailing copies of a résumé to prospective employers if you are looking for a new job in your present occupation.

**Travel and transportation expenses.** If you travel to an area and, while there, you look for a new job in your present occupation, you may be able to deduct travel expenses to and from the area. You can deduct the travel expenses if the trip is primarily to look for a new job. The amount of time you spend on personal activity compared to the amount of time you spend in looking for work is important in determining whether the trip is primarily personal or is primarily to look for a new job.

Even if you cannot deduct the travel expenses to and from an area, you can deduct the expenses of looking for a new job in your present occupation while in the area.

You can choose to use the standard mileage rate to figure your car expenses. The rate for business use of a vehicle before September 1, 2005, is 40½ cents per mile. The rate for business use of a vehicle after August 31, 2005, is 48½ cents per mile. See Publication 463 for more information on travel and car expenses.

## Legal Fees

You can deduct legal fees related to doing or keeping your job.

## Licenses and Regulatory Fees

You can deduct the amount you pay each year to state or local governments for licenses and regulatory fees for your trade, business, or profession.

## Occupational Taxes

You can deduct an occupational tax charged at a flat rate by a locality for the privilege of working or conducting a business in the locality. If you are an employee, you can claim occupational taxes only as a miscellaneous deduction subject to the 2% limit; you cannot claim them as a deduction for taxes elsewhere on your return.

## Repayment of Income Aid Payment

An “income aid payment” is one that is received under an employer’s plan to aid employees who lose their jobs because of lack of work. If you repay a lump-sum income aid payment that you received and included in income in an earlier year, you can deduct the repayment.

## Research Expenses of a College Professor

If you are a college professor, you can deduct your research expenses, including travel expenses, for teaching, lecturing, or writing and publishing on subjects that relate directly to your teaching duties. You must have undertaken the research as a means of carrying out the duties ex-

pected of a professor and without expectation of profit apart from salary. However, you cannot deduct the cost of travel as a form of education.

## Rural Mail Carriers’ Vehicle Expenses

If your expenses to use a vehicle in performing services as a rural mail carrier are more than the amount of your reimbursements, you can deduct the unreimbursed expenses. See chapter 4 of Publication 463 for more information.

## Tools Used in Your Work

Generally, you can deduct amounts you spend for tools used in your work if the tools wear out and are thrown away within 1 year from the date of purchase. You can depreciate the cost of tools that have a useful life substantially beyond the tax year. For more information about depreciation, see Publication 946.

## Travel, Transportation, Meal, Entertainment, and Gift Expenses

If you are an employee and have ordinary and necessary business-related expenses for travel away from home, local transportation, entertainment, and gifts, you may be able to deduct these expenses. Generally, you must file Form 2106 or 2106-EZ to claim these expenses.

**Travel expenses.** Travel expenses are those incurred while traveling away from home for your employer. You can deduct travel expenses paid or incurred in connection with a temporary work assignment. Generally, you cannot deduct travel expenses paid or incurred in connection with an indefinite work assignment.

Travel expenses may include:

- The cost of getting to and from your business destination (air, rail, bus, car, etc.),
- Meals and lodging while away from home,
- Taxi fares,
- Baggage charges, and
- Cleaning and laundry expenses.

Travel expenses are discussed more fully in chapter 1 of Publication 463.

**Temporary work assignment.** If your assignment or job away from home in a single location is realistically expected to last (and does in fact last) for 1 year or less, it is temporary, unless there are facts and circumstances that indicate it is not.

**Indefinite work assignment.** If your assignment or job away from home in a single location is realistically expected to last for more than 1 year, it is indefinite, whether or not it actually lasts for more than 1 year.



*Employment that is initially temporary may become indefinite due to changed circumstances.*

**Federal crime investigation and prosecution.** If you are a federal employee participating in a federal crime investigation or prosecution, you are not subject to the 1-year rule for deducting temporary travel expenses. This means that you may be able to deduct travel expenses even if you are away from your tax home for more than one year.

To qualify, the Attorney General must certify that you are traveling:

1. For the Federal Government,
2. In a temporary duty status, and
3. To investigate, prosecute, or provide support services for the investigation or prosecution of a federal crime.

**Local transportation expenses.** Local transportation expenses are the expenses of getting from one workplace to another when you are not traveling away from home. They include the cost of transportation by air, rail, bus, taxi, and the cost of using your car.

You can choose to use the standard mileage rate to figure your car expenses. The rate for business use of a vehicle before September 1, 2005, is 40½ cents per mile. The rate for business use of a vehicle after August 31, 2005, is 48½ cents per mile.

**Work at two places in a day.** If you work at two places in a day, whether or not for the same employer, you can generally deduct the expenses of getting from one workplace to the other.

**Temporary work location.** You can deduct expenses incurred in going between your home and a temporary work location if at least one of the following applies.

1. The work location is outside the metropolitan area where you live and normally work
2. You have at least one regular work location (other than your home) for the same trade or business. (If this applies, the distance between your home and the temporary work location does not matter.)

For this purpose, a work location is generally considered temporary if your work there is realistically expected to last (and does in fact last) for 1 year or less. It is not temporary if your work there is realistically expected to last for more than 1 year, even if it actually lasts for 1 year or less. If your work there initially is realistically expected to last for 1 year or less, but later is realistically expected to last for more than 1 year, the work location is generally considered temporary until the date your realistic expectation changes and not temporary after that date. For more information, see chapter 4 of Publication 463.

**Home office.** You can deduct expenses incurred in going between your home and a workplace if your home is your principal place of business for the same trade or business. (In this situation, whether the other workplace is

temporary or regular and its distance from your home do not matter.) See *Home Office*, earlier, for a discussion on the use of your home as your principal place of business.

**Meals and entertainment.** Generally, you can deduct entertainment expenses (including entertainment-related meals) only if they are directly related to the active conduct of your trade or business. However, the expense only needs to be associated with the active conduct of your trade or business if it directly precedes or follows a substantial and bona fide business-related discussion.

You can deduct only 50% of your business-related meal and entertainment expenses unless the expenses meet certain exceptions. You apply this 50% limit before you apply the 2%-of-adjusted-gross-income limit.

**Meals when subject to “hours of service” limits.** You can deduct 70% of your business-related meal expenses if you consume the meals during or incident to any period subject to the Department of Transportation’s “hours of service” limits. You apply this 70% limit before you apply the 2%-of-adjusted-gross-income limit.

**Gift expenses.** You can generally deduct up to \$25 of business gifts you give to any one individual during the year. The following items do not count toward the \$25 limit.

- Identical, widely distributed items costing \$4 or less that have your name clearly and permanently imprinted.
- Signs, racks, and promotional materials to be displayed on the business premises of the recipient.

**Additional information.** See Publication 463 for more information on travel, transportation, meal, entertainment, and gift expenses, and reimbursements for these expenses.

## Union Dues and Expenses

You can deduct dues and initiation fees you pay for union membership.

You can also deduct assessments for benefit payments to unemployed union members. However, you cannot deduct the part of the assessments or contributions that provides funds for the payment of sick, accident, or death benefits. Also, you cannot deduct contributions to a pension fund even if the union requires you to make the contributions.

You may not be able to deduct amounts you pay to the union that are related to certain lobbying and political activities. See *Lobbying Expenses* under *Nondeductible Expenses*, later.

## Work Clothes and Uniforms

You can deduct the cost and upkeep of work clothes if the following two requirements are met.

1. You must wear them as a condition of your employment

2. The clothes are not suitable for everyday wear.



*It is not enough that you wear distinctive clothing. The clothing must be specifically required by your employer. Nor is it enough that you do not, in fact, wear your work clothes away from work. The clothing must not be suitable for taking the place of your regular clothing.*

Examples of workers who may be able to deduct the cost and upkeep of work clothes are: delivery workers, firefighters, health care workers, law enforcement officers, letter carriers, professional athletes, and transportation workers (air, rail, bus, etc.).

Musicians and entertainers can deduct the cost of theatrical clothing and accessories that are not suitable for everyday wear.

However, work clothing consisting of white cap, white shirt or white jacket, white bib overalls, and standard work shoes, which a painter is required by his union to wear on the job, is not distinctive in character or in the nature of a uniform. Similarly, the costs of buying and maintaining blue work clothes worn by a welder at the request of a foreman are not deductible.

**Protective clothing.** You can deduct the cost of protective clothing required in your work, such as safety shoes or boots, safety glasses, hard hats, and work gloves.

Examples of workers who may be required to wear safety items are: carpenters, cement workers, chemical workers, electricians, fishing boat crew members, machinists, oil field workers, pipe fitters, steamfitters, and truck drivers.

**Military uniforms.** You generally cannot deduct the cost of your uniforms if you are on full-time active duty in the armed forces. However, if you are an armed forces reservist, you can deduct the unreimbursed cost of your uniform if military regulations restrict you from wearing it except while on duty as a reservist. In figuring the deduction, you must reduce the cost by any nontaxable allowance you receive for these expenses.

If local military rules do not allow you to wear fatigue uniforms when you are off duty, you can deduct the amount by which the cost of buying and keeping up these uniforms is more than the uniform allowance you receive.

If you are a student at an armed forces academy, you cannot deduct the cost of your uniforms if they replace regular clothing. However, you can deduct the cost of insignia, shoulder boards, and related items.

You can deduct the cost of your uniforms if you are a civilian faculty or staff member of a military school.

## Tax Preparation Fees

You can usually deduct tax preparation fees in the year you pay them. Thus, on your 2005 return, you can deduct fees paid in 2005 for preparing your 2004 return. These fees include the cost of tax preparation software programs and tax publications. They also include any fee you paid for electronic filing of your return. However, if you paid your tax by credit card, you cannot deduct the convenience fee you were charged.

Deduct expenses of preparing tax schedules relating to profit or loss from business (Schedule C or C-EZ), rentals or royalties (Schedule E), or farm income and expenses (Schedule F) on the appropriate schedule. Deduct expenses of preparing the remainder of the return on Form 1040, Schedule A, line 21.

## Other Expenses

You can deduct certain other expenses as miscellaneous itemized deductions subject to the 2%-of-adjusted-gross-income limit. These are expenses you pay:

1. To produce or collect income that must be included in your gross income,
2. To manage, conserve, or maintain property held for producing such income, or
3. To determine, contest, pay, or claim a refund of any tax.

You can deduct expenses you pay for the purposes in (1) and (2) above only if they are reasonably and closely related to these purposes.

These other expenses include the following items.

- Appraisal fees for a casualty loss or charitable contribution.
- Casualty and theft losses from property used in performing services as an employee.
- Clerical help and office rent in caring for investments.
- Depreciation on home computers used for investments.
- Excess deductions (including administrative expenses) allowed a beneficiary on termination of an estate or trust.
- Fees to collect interest and dividends.
- Hobby expenses, but generally not more than hobby income.
- Indirect miscellaneous deductions of pass-through entities.
- Investment fees and expenses.
- Legal fees related to producing or collecting taxable income or getting tax advice.
- Loss on traditional IRAs or Roth IRAs, when all amounts have been distributed to you.
- Loss on deposits in an insolvent or bankrupt financial institution.
- Repayments of income.
- Repayments of social security benefits.
- Safe deposit box rental.
- Service charges on dividend reinvestment plans.
- Tax advice fees.



- Trustee's fees for your IRA, if separately billed and paid.

If the expenses you pay produce income that is only partially taxable, see *Tax-Exempt Income Expenses*, later, under *Nondeductible Expenses*.

## Appraisal Fees

You can deduct appraisal fees if you pay them to figure a casualty loss or the fair market value of donated property.

## Casualty and Theft Losses

You can deduct a casualty or theft loss as a miscellaneous itemized deduction subject to the 2% limit if you used the damaged or stolen property in performing services as an employee. First report the loss in Section B of Form 4684, *Casualties and Thefts*. You may also have to include the loss on Form 4797, *Sales of Business Property*, if you are otherwise required to file that form. To figure your deduction, add all casualty or theft losses from this type of property included on Form 4684, lines 32 and 38b, or Form 4797, line 18a. For more information on casualty and theft losses, see Publication 547, *Casualties, Disasters, and Thefts*.

## Clerical Help and Office Rent

You can deduct office expenses, such as rent and clerical help, that you have in connection with your investments and collecting the taxable income on them.

## Depreciation on Home Computer

You can deduct depreciation on your home computer if you use it to produce income (for example, to manage your investments that produce taxable income). You generally must depreciate the computer using the straight line method over the Alternative Depreciation System (ADS) recovery period. But if you work as an employee and also use the computer in that work, see *Depreciation on Computers or Cellular Telephones* under *Unreimbursed Employee Expenses*, earlier. For more information on depreciation, see Publication 946.

## Excess Deductions of an Estate

If an estate's total deductions in its last tax year are more than its gross income for that year, the beneficiaries succeeding to the estate's property can deduct the excess. Do not include deductions for the estate's personal exemption and charitable contributions when figuring the estate's total deductions. The beneficiaries can claim the deduction only for the tax year in which, or with which, the estate terminates, whether the year of termination is a normal year or a short tax year. For more information, see *Termination of Estate* in Publication 559, *Survivors, Executors, and Administrators*.

## Fees To Collect Interest and Dividends

You can deduct fees you pay to a broker, bank, trustee, or similar agent to collect your taxable bond interest or dividends on shares of stock. But you cannot deduct a fee you pay to a broker to buy investment property, such as stocks or bonds. You must add the fee to the cost of the property.

You cannot deduct the fee you pay to a broker to sell securities. You can use the fee only to figure gain or loss from the sale. See the instructions for columns (d) and (e) of Schedule D (Form 1040) for information on how to report the fee.

## Hobby Expenses

You can generally deduct hobby expenses, but only up to the amount of hobby income. A hobby is not a business because it is not carried on to make a profit. See *Not-for-Profit Activities* in chapter 1 of Publication 535.

## Indirect Deductions of Pass-Through Entities

Pass-through entities include partnerships, S corporations, and mutual funds that are not publicly offered. Deductions of pass-through entities are passed through to the partners or shareholders. The partners or shareholders can deduct their share of passed-through deductions for investment expenses as miscellaneous itemized deductions subject to the 2% limit.

**Example.** You are a member of an investment club that is formed solely to invest in securities. The club is treated as a partnership. The partnership's income is solely from taxable dividends, interest, and gains from sales of securities. In this case, you can deduct your share of the partnership's operating expenses as miscellaneous itemized deductions subject to the 2% limit. However, if the investment club partnership has investments that also produce nontaxable income, you cannot deduct your share of the partnership's expenses that produce the nontaxable income.

**Publicly offered mutual funds.** Publicly offered mutual funds do not pass deductions for investment expenses through to shareholders. A mutual fund is "publicly offered" if it is:

1. Continuously offered pursuant to a public offering,
2. Regularly traded on an established securities market, or
3. Held by or for at least 500 persons at all times during the tax year.

A publicly offered mutual fund will send you a Form 1099-DIV, *Dividends and Distributions*, or a substitute form, showing the net amount of dividend income (gross dividends minus investment expenses). This net figure is the amount you report on your return as income. You cannot deduct investment expenses.

**Information returns.** You should receive information returns from pass-through entities.

**Partnerships and S corporations.** These entities issue Schedule K-1, which lists the items and amounts you must report, and identifies the tax return schedules and lines to use.

**Nonpublicly offered mutual funds.** These funds will send you a Form 1099-DIV, or a substitute form, showing your share of gross income and investment expenses. You can claim the expenses only as a miscellaneous itemized deduction subject to the 2% limit.

## Investment Fees and Expenses

You can deduct investment fees, custodial fees, trust administration fees, and other expenses you paid for managing your investments that produce taxable income.

## Legal Expenses

You can usually deduct legal expenses that you incur in attempting to produce or collect taxable income or that you pay in connection with the determination, collection, or refund of any tax.

You can also deduct legal expenses that are:

1. Related to either doing or keeping your job, such as those you paid to defend yourself against criminal charges arising out of your trade or business,
2. For tax advice related to a divorce if the bill specifies how much is for tax advice and it is determined in a reasonable way, or
3. To collect taxable alimony.

You can deduct expenses of resolving tax issues relating to profit or loss from business (Schedule C or C-EZ), rentals or royalties (Schedule E), or farm income and expenses (Schedule F) on the appropriate schedule. You deduct expenses of resolving nonbusiness tax issues on Schedule A (Form 1040). See *Tax Preparation Fees*, earlier.

**Unlawful discrimination claims.** You may be able to deduct, as an adjustment to income on Form 1040, line 36, rather than as a miscellaneous itemized deduction, attorney fees and court costs for actions settled or decided after October 22, 2004, involving a claim of unlawful discrimination, a claim against the U. S. Government, or a claim made under section 1862(b)(3)(A) of the Social Security Act. However, the amount you can deduct on Form 1040, line 36, is limited to the amount you included in gross income in 2005 for that claim. The rest of your attorney fees and court costs for this type of claim are deductible as a miscellaneous itemized deduction subject to the 2% limit. See Publication 525 for more information.

## Loss on Deposits

If you can reasonably estimate the amount of your loss on money you have on deposit in a financial institution that becomes insolvent or bankrupt, you can generally choose to deduct it in the current year even though its exact amount has not been finally determined. Once you make this choice, you cannot change it without IRS approval.

If none of the deposit is federally insured, you can deduct the loss in either of the following ways.

1. As a miscellaneous itemized deduction subject to the 2% limit. Write the name of the financial institution and "Insolvent Financial Institution" beside the amount on Schedule A, line 22. This deduction is limited to \$20,000 (\$10,000 if you are married filing separately) for each financial institution, reduced by any expected state insurance proceeds.
2. As a casualty loss. See Publication 547 for details.

If any part of the deposit is federally insured, you can deduct the loss only as a casualty loss.

**Exception.** You cannot make this choice if you are a 1%-or-more-owner or an officer of the financial institution, or are related to such owner or officer. For a definition of "related," see *Deposit in Insolvent or Bankrupt Financial Institution* in chapter 4 of Publication 550.

**Actual loss different from estimated loss.** If you make this choice and your actual loss is less than your estimated loss, you must include the excess in income. See *Recoveries* in Publication 525. If your actual loss is more than your estimated loss, treat the excess loss as explained under *Choice not made*, next.

**Choice not made.** If you do not make this choice (or if you have an excess actual loss after choosing to deduct your estimated loss), treat your loss (or excess loss) as a nonbusiness bad debt (deductible as a short-term capital loss) in the year its amount is finally determined. See *Nonbusiness Bad Debts* in chapter 4 of Publication 550.

## Loss on IRA

If you have a loss on your traditional IRA (or Roth IRA) investment, you can deduct the loss as a miscellaneous itemized deduction subject to the 2% limit, but only when all the amounts in all your traditional IRA (or Roth IRA) accounts have been distributed to you and the total distributions are less than your unrecovered basis. For more information, see Publication 590, *Individual Retirement Arrangements (IRAs)*.

## Repayments of Income

If you had to repay an amount that you included in income in an earlier year, you may be able to deduct the amount you repaid. If the amount you had to repay was ordinary income of \$3,000 or less, the deduction is subject to the 2% limit. If it was more than \$3,000, see *Repayments*

Under Claim of Right under Deductions Not Subject to the 2% Limit, later.

## Repayments of Social Security Benefits

If the total of the amounts in box 5 (net benefits for 2005) of all your Forms SSA-1099, Social Security Benefit Statement, and Forms RRB-1099, Payments By the Railroad Retirement Board, is a negative figure (a figure in parentheses), you may be able to take a miscellaneous itemized deduction subject to the 2% limit. The amount you can deduct is the part of the negative figure that represents an amount you included in gross income in an earlier year.

The amount in box 5 of Form SSA-1099 or RRB-1099 is the net amount of your benefits for the year. It will be a negative figure if the amount of benefits you repaid in 2005 (box 4) is more than the gross amount of benefits paid to you in 2005 (box 3).



*If the deduction is more than \$3,000, you will have to use a special computation to figure your tax. See Publication 915, Social Security and Equivalent Railroad Retirement Benefits, for additional information.*

## Safe Deposit Box Rent

You can deduct safe deposit box rent if you use the box to store taxable income-producing stocks, bonds, or investment-related papers and documents. You cannot deduct the rent if you use the box only for jewelry, other personal items, or tax-exempt securities.

## Service Charges on Dividend Reinvestment Plans

You can deduct service charges you pay as a subscriber in a dividend reinvestment plan. These service charges include payments for:

1. Holding shares acquired through a plan,
2. Collecting and reinvesting cash dividends, and
3. Keeping individual records and providing detailed statements of accounts.

## Trustee's Administrative Fees for IRA

Trustee's administrative fees that are billed separately and paid by you in connection with your IRA are deductible (if they are ordinary and necessary) as a miscellaneous itemized deduction subject to the 2% limit.

# Deductions Not Subject to the 2% Limit

You can deduct the items listed below as miscellaneous itemized deductions. They are not subject to the 2% limit. Report these items on Schedule A (Form 1040), line 27.

## List of Deductions

- Amortizable premium on taxable bonds.
- Casualty and theft losses from income-producing property.
- Federal estate tax on income in respect of a decedent.
- Gambling losses up to the amount of gambling winnings.
- Impairment-related work expenses of persons with disabilities.
- Loss from other activities from Schedule K-1 (Form 1065-B), box 2.
- Repayments of more than \$3,000 under a claim of right.
- Unrecovered investment in an annuity.

## Amortizable Premium on Taxable Bonds

In general, if the amount you pay for a bond is greater than its stated principal amount, the excess is bond premium. You can elect to amortize the premium on taxable bonds. The amortization of the premium is generally an offset to interest income on the bond rather than a separate deduction item.

**Pre-1998 election to amortize bond premium.** Generally, if you first elected to amortize bond premium before 1998, the above treatment of the premium does not apply to bonds you acquired before 1988.

**Bonds acquired before October 23, 1986.** The amortization of the premium on these bonds is a miscellaneous itemized deduction not subject to the 2% limit.

**Bonds acquired after October 22, 1986, and before 1988.** The amortization of the premium on these bonds is investment interest expense subject to the investment interest limit, unless you chose to treat it as an offset to interest income on the bond.

**Deduction for excess premium.** On certain bonds (such as bonds that pay a variable rate of interest or that provide for an interest-free period), the amount of bond premium allocable to a period may exceed the amount of stated interest allocable to the period. If this occurs, treat the excess as a miscellaneous itemized deduction that is not subject to the 2% limit. However, the amount deductible is limited to the amount by which your total interest inclusions on the bond in prior periods exceed the total amount you

treated as a bond premium deduction on the bond in prior periods. If any of the excess bond premium cannot be deducted because of the limit, this amount is carried forward to the next period and is treated as bond premium allocable to that period.



**Pre-1998 choice to amortize bond premium.** *If you made the choice to amortize the premium on taxable bonds before 1998, you can deduct the bond premium amortization that is more than your interest income only for bonds acquired during 1998 and later years.*

**More information.** For more information on bond premium, see *Bond Premium Amortization* in chapter 3 of Publication 550.

## Casualty and Theft Losses of Income-Producing Property

You can deduct a casualty or theft loss as a miscellaneous itemized deduction not subject to the 2% limit if the damaged or stolen property was income-producing property (property held for investment, such as stocks, notes, bonds, gold, silver, vacant lots, and works of art). First report the loss in Section B of Form 4684. You may also have to include the loss on Form 4797 if you are otherwise required to file that form. To figure your deduction, add all casualty or theft losses from this type of property included on Form 4684, lines 32 and 38b, or Form 4797, line 18a. For more information on casualty and theft losses, see Publication 547.

## Federal Estate Tax on Income in Respect of a Decedent

You can deduct the federal estate tax attributable to income in respect of a decedent that you as a beneficiary include in your gross income. Income in respect of the decedent is gross income that the decedent would have received had death not occurred and that was not properly includible in the decedent's final income tax return. See Publication 559 for information about figuring the amount of this deduction.

## Gambling Losses Up to the Amount of Gambling Winnings

You must report the full amount of your gambling winnings for the year on Form 1040, line 21. You deduct your gambling losses for the year on Schedule A (Form 1040), line 27. You cannot deduct gambling losses that are more than your winnings.



*You cannot reduce your gambling winnings by your gambling losses and report the difference. You must report the full amount of your winnings as income and claim your losses (up to the amount of winnings) as an itemized deduction. Therefore, your records should show your winnings separately from your losses.*



**Diary of winnings and losses.** You must keep an accurate diary or similar record of your losses and winnings.

Your diary should contain at least the following information.

1. The date and type of your specific wager or wagering activity.
2. The name and address or location of the gambling establishment.
3. The names of other persons present with you at the gambling establishment.
4. The amount(s) you won or lost.

**Proof of winnings and losses.** In addition to your diary, you should also have other documentation. You can generally prove your winnings and losses through Form W-2G, Certain Gambling Winnings, Form 5754, Statement by Person(s) Receiving Gambling Winnings, wagering tickets, canceled checks, substitute checks, credit records, bank withdrawals, and statements of actual winnings or payment slips provided to you by the gambling establishment.

For specific wagering transactions, you can use the following items to support your winnings and losses.



*These recordkeeping suggestions are intended as general guidelines to help you establish your winnings and losses. They are not all-inclusive. Your tax liability depends on your particular facts and circumstances.*

**Keno.** Copies of the keno tickets you purchased that were validated by the gambling establishment, copies of your casino credit records, and copies of your casino check cashing records.

**Slot machines.** A record of the machine number and all winnings by date and time the machine was played.

**Table games (twenty-one (blackjack), craps, poker, baccarat, roulette, wheel of fortune, etc.).** The number of the table at which you were playing. Casino credit card data indicating whether the credit was issued in the pit or at the cashier's cage.

**Bingo.** A record of the number of games played, cost of tickets purchased, and amounts collected on winning tickets. Supplemental records include any receipts from the casino, parlor, etc.

**Racing (horse, harness, dog, etc.).** A record of the races, amounts of wagers, amounts collected on winning tickets, and amounts lost on losing tickets. Supplemental records include unredeemed tickets and payment records from the racetrack.

**Lotteries.** A record of ticket purchases, dates, winnings, and losses. Supplemental records include unredeemed tickets, payment slips, and winnings statements.

## Impairment-Related Work Expenses

If you have a physical or mental disability that limits your being employed, or substantially limits one or more of your major life activities, such as performing manual tasks, walking, speaking, breathing, learning, and working, you can deduct your impairment-related work expenses.

Impairment-related work expenses are ordinary and necessary business expenses for attendant care services at your place of work and other expenses in connection with your place of work that are necessary for you to be able to work.

**Where to report.** If you are an employee, you enter impairment-related work expenses on Form 2106 or 2106-EZ. Enter on Schedule A (Form 1040), line 27, that part of the amount on Form 2106, line 10, or Form 2106-EZ, line 6, that is related to your impairment. Enter the amount that is unrelated to your impairment on Schedule A (Form 1040), line 20.

## Loss From Other Activities From Schedule K-1 (Form 1065-B), Box 2

If the amount reported in Schedule K-1 (Form 1065-B), box 2, is a loss, report it on Schedule A (Form 1040), line 27. It is not subject to the passive activity limitations. See the 2005 Partner's Instructions For Schedule K-1 (Form 1065-B) for more information.

## Repayments Under Claim of Right

If you had to repay more than \$3,000 that you included in your income in an earlier year because at the time you thought you had an unrestricted right to it, you may be able to deduct the amount you repaid, or take a credit against your tax. See *Repayments* in Publication 525 for more information.

## Unrecovered Investment in Annuity

A retiree who contributed to the cost of an annuity can exclude from income a part of each payment received as a tax-free return of the retiree's investment. If the retiree dies before the entire investment is recovered tax free, any unrecovered investment can be deducted on the retiree's final income tax return. See Publication 575, Pension and Annuity Income, for more information about the tax treatment of pensions and annuities.

## Performing Artists

If you are a qualified performing artist, you can deduct your employee business expenses as an adjustment to income rather than as a miscellaneous itemized deduction. To qualify, you must meet all three of the following requirements.

1. You perform services in the performing arts for at least two employers during your tax year. (You are

considered to have performed services in the performing arts for an employer only if that employer paid you \$200 or more.)

2. Your allowable business expenses related to the performing arts are more than 10% of your gross income from the performing arts.
3. Your adjusted gross income is not more than \$16,000 before deducting these business expenses.

If you do not meet all of the above requirements, you must deduct your expenses as a miscellaneous itemized deduction subject to the 2% limit.

**Special rules for married persons.** If you are married, you must file a joint return unless you lived apart from your spouse at all times during the tax year.

If you file a joint return, you must figure requirements (1) and (2) above separately for both you and your spouse. However, requirement (3) applies to your and your spouse's combined adjusted gross income.

**Where to report.** If you meet all of the above requirements, you should first complete Form 2106 or Form 2106-EZ. Then you include your performing-arts related expenses from Form 2106, line 10, or Form 2106-EZ, line 6, on Form 1040, line 24.

## Officials Paid on a Fee Basis

If you are a fee-basis official, you can claim your expenses in performing services in that job as an adjustment to income rather than as a miscellaneous itemized deduction. To qualify as a fee-basis official, you must be employed by a state or local government and be paid in whole or in part on a fee basis.

**Where to report.** If you qualify as a fee-basis official, you should first complete Form 2106 or Form 2106-EZ. Then include your expenses in performing services in that job (Form 2106, line 10, or Form 2106-EZ, line 6) on Form 1040, line 24.

## Armed Forces Reservists Traveling More Than 100 Miles From Home

If you are a member of a reserve component of the Armed Forces of the United States and you travel more than 100 miles away from home in connection with your performance of services as a member of the reserves, you can deduct your travel expenses as an adjustment to gross income rather than as a miscellaneous itemized deduction. The amount of expenses you can deduct as an adjustment to gross income is limited to the regular federal per diem rate (for lodging, meals, and incidental expenses) and the standard mileage rate (for car expenses) plus any parking fees, ferry fees, and tolls. For more information see Publication 463.

**Member of a reserve component.** You are a member of a reserve component of the Armed Forces of the United States if you are in the Army, Naval, Marine Corps, Air Force, or Coast Guard Reserve, the Army National Guard

of the United States, the Air National Guard of the United States, or the Reserve Corps of the Public Health Service.

**Where to report.** If you have reserve-related travel that takes you more than 100 miles from home, you should first complete Form 2106 or Form 2106-EZ. Then include your expenses for reserve travel over 100 miles from home, up to the federal rate, from Form 2106, line 10, or Form 2106-EZ, line 6, in the total on Form 1040, line 24. Subtract this amount from the total on Form 2106, line 10, or Form 2106-EZ, line 6, and deduct the balance as an itemized deduction on Schedule A (Form 1040), line 20.

You cannot deduct expenses of travel that does not take you more than 100 miles from home as an adjustment to gross income. Instead, you must complete Form 2106 or 2106-EZ and deduct those expenses as an itemized deduction on Schedule A (Form 1040), line 20.

## Educator Expenses

If you were an eligible educator in 2005, you can deduct up to \$250 of qualified expenses you paid in 2005 as an adjustment to gross income on Form 1040, line 23, rather than as a miscellaneous itemized deduction. If you file Form 1040A, you can deduct these expenses on line 16. If you and your spouse are filing jointly and both of you were eligible educators, the maximum deduction is \$500. However, neither spouse can deduct more than \$250 of his or her qualified expenses.

**Eligible educator.** An eligible educator is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year.

**Qualified expenses.** Qualified expenses include ordinary and necessary expenses paid in connection with books, supplies, equipment, (including computer equipment, software, and services), and other materials used in the classroom. An ordinary expense is one that is common and accepted in your educational field. A necessary expense is one that is helpful and appropriate for your profession as an educator. An expense does not have to be required to be considered necessary.

Qualified expenses do not include expenses for home schooling or for nonathletic supplies for courses in health or physical education. You must reduce your qualified expenses by the following amounts.

1. Excludable U.S. series EE and I savings bond interest from Form 8815.
2. Nontaxable qualified state tuition program earnings.
3. Nontaxable earnings from Coverdell education savings accounts.
4. Any reimbursements you received for these expenses that were not reported to you on your Form W-2, box 1.

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## Nondeductible Expenses

You cannot deduct the following expenses.

### List of Expenses

- Adoption expenses.
- Broker's commissions that you paid in connection with your IRA or other investment property.
- Burial or funeral expenses, including the cost of a cemetery lot.
- Campaign expenses.
- Capital expenses.
- Check-writing fees.
- Club dues.
- Commuting expenses.
- Fees and licenses, such as car licenses, marriage licenses, and dog tags.
- Fines and penalties, such as parking tickets.
- Health spa expenses.
- Hobby losses—but see *Hobby expenses*, earlier.
- Home repairs, insurance, and rent.
- Home security system.
- Illegal bribes and kickbacks—see *Bribes and kickbacks* in chapter 13 of Publication 535.
- Investment-related seminars.
- Life insurance premiums.
- Lobbying expenses.
- Losses from the sale of your home, furniture, personal car, etc.
- Lost or misplaced cash or property.
- Lunches with co-workers.
- Meals while working late.
- Medical expenses as business expenses.
- Personal disability insurance premiums.
- Personal legal expenses.
- Personal, living, or family expenses.
- Political contributions.
- Professional accreditation fees.
- Professional reputation, expenses to improve.
- Relief fund contributions.
- Residential telephone line.
- Stockholders' meeting, expenses of attending.

- Tax-exempt income, expenses of earning or collecting.
- The value of wages never received or lost vacation time.
- Travel expenses for another individual.
- Voluntary unemployment benefit fund contributions.
- Wristwatches.

## Adoption Expenses

You cannot deduct the expenses of adopting a child but you may be able to take a credit for those expenses. For details, see Form 8839, Qualified Adoption Expenses.

## Campaign Expenses

You cannot deduct campaign expenses of a candidate for any office, even if the candidate is running for reelection to the office. These include qualification and registration fees for primary elections.

**Legal fees.** You cannot deduct legal fees paid to defend charges that arise from participation in a political campaign.

## Capital Expenses

You cannot currently deduct amounts paid to buy property that has a useful life substantially beyond the tax year or amounts paid to increase the value or prolong the life of property. If you use such property in your work, you may be able to take a depreciation deduction. See Publication 946. If the property is a car used in your work, also see Publication 463.

## Check-Writing Fees on Personal Account

If you have a personal checking account, you cannot deduct fees charged by the bank for the privilege of writing checks, even if the account pays interest.

## Club Dues

Generally, you cannot deduct the cost of membership in any club organized for business, pleasure, recreation, or other social purpose. This includes business, social, athletic, luncheon, sporting, airline, hotel, golf, and country clubs. For exceptions, see *Dues to Chambers of Commerce and Professional Societies* under *Unreimbursed Employee Expenses*, earlier.

## Commuting Expenses

You cannot deduct commuting expenses (the cost of transportation between your home and your main or regular place of work). If you haul tools, instruments, or other items in your car to and from work, you can deduct only the

additional cost of hauling the items, such as the rent on a trailer to carry the items.

## Fines or Penalties

You cannot deduct fines or penalties you pay to a governmental unit for violating a law. This includes an amount paid in settlement of your actual or potential liability for a fine or penalty (civil or criminal). Fines or penalties include parking tickets, tax penalties, and penalties deducted from teachers' paychecks after an illegal strike.

## Health Spa Expenses

You cannot deduct health spa expenses, even if there is a job requirement to stay in excellent physical condition, such as might be required of a law enforcement officer.

## Home Security System

You cannot deduct the cost of a home security system as a miscellaneous deduction. However, you may be able to claim a deduction for a home security system as a business expense if you have a home office. See *Home Office* under *Unreimbursed Employee Expenses*, earlier, and Publication 587.

## Homeowners' Insurance Premiums

You cannot deduct premiums that you pay or that are placed in escrow for insurance on your home, such as fire and liability or mortgage insurance.

## Investment-Related Seminars

You cannot deduct any expenses for attending a convention, seminar, or similar meeting for investment purposes.

## Life Insurance Premiums

You cannot deduct premiums you pay on your life insurance. You may be able to deduct, as alimony, premiums you pay on life insurance policies assigned to your former spouse. See Publication 504, *Divorced or Separated Individuals*, for information on alimony.

## Lobbying Expenses

You generally cannot deduct amounts paid or incurred for lobbying expenses. These include expenses to:

1. Influence legislation,
2. Participate, or intervene, in any political campaign for, or against, any candidate for public office,
3. Attempt to influence the general public, or segments of the public, about elections, legislative matters, or referendums, or

4. Communicate directly with covered executive branch officials in any attempt to influence the official actions or positions of those officials.

Lobbying expenses also include any amounts paid or incurred for research, preparation, planning, or coordination of any of these activities.

**Covered executive branch official.** A covered executive branch official, for the purpose of (4) above, is any of the following officials.

- The President.
- The Vice President.
- Any officer or employee of the White House Office of the Executive Office of the President, and the two most senior level officers of each of the other agencies in the Executive Office.
- Any individual serving in a position in Level I of the Executive Schedule under section 5312 of Title 5, United States Code, any other individual designated by the President as having Cabinet-level status, and any immediate deputy of one of these individuals.

**Dues used for lobbying.** If a tax-exempt organization notifies you that part of the dues or other amounts you pay to the organization are used to pay nondeductible lobbying expenses, you cannot deduct that part.

**Exceptions.** You can deduct certain lobbying expenses if they are ordinary and necessary expenses of carrying on your trade or business.

1. You can deduct expenses for attempting to influence the legislation of any local council or similar governing body (local legislation). An Indian tribal government is considered a local council or similar governing body.
2. You can deduct in-house expenses for influencing legislation or communicating directly with a covered executive branch official if the expenses for the tax year are not more than \$2,000 (not counting overhead expenses).
3. If you are a professional lobbyist, you can deduct the expenses you incur in the trade or business of lobbying on behalf of another person. Payments by the other person to you for lobbying activities cannot be deducted.

## Lost or Mislaid Cash or Property

You cannot deduct a loss based on the mere disappearance of money or property. However, an accidental loss or disappearance of property can qualify as a casualty if it results from an identifiable event that is sudden, unexpected, or unusual. See Publication 547.

**Example.** A car door is accidentally slammed on your hand, breaking the setting of your diamond ring. The dia-

mond falls from the ring and is never found. The loss of the diamond is a casualty.

## Lunches With Co-workers

You cannot deduct the expenses of lunches with co-workers, except while traveling away from home on business. See Publication 463 for information on deductible expenses while traveling away from home.

## Meals While Working Late

You cannot deduct the cost of meals while working late. However, you may be able to claim a deduction if the cost of the meals is a deductible entertainment expense, or if you are traveling away from home. See Publication 463 for information on deductible entertainment expenses and expenses while traveling away from home.

## Personal Legal Expenses

You cannot deduct personal legal expenses such as those for the following.

1. Custody of children.
2. Breach of promise (to marry) suit.
3. Civil or criminal charges resulting from a personal relationship.
4. Damages for personal injury.
5. Preparation of a title (or defense or perfection of a title).
6. Preparation of a will.
7. Property claims or property settlement in a divorce.

You cannot deduct these expenses even if a result of the legal proceeding is the loss of income-producing property.

## Political Contributions

You cannot deduct contributions made to a political candidate, a campaign committee, or a newsletter fund. Advertisements in convention bulletins and admissions to dinners or programs that benefit a political party or political candidate are not deductible.

## Professional Accreditation Fees

You cannot deduct professional accreditation fees such as the following.

1. Accounting certificate fees paid for the initial right to practice accounting.
2. Bar exam fees and incidental expenses in securing admission to the bar.



3. Medical and dental license fees paid to get initial licensing.

## Professional Reputation

You cannot deduct expenses of radio and TV appearances to increase your personal prestige or establish your professional reputation.

## Relief Fund Contributions

You cannot deduct contributions paid to a private plan that pays benefits to any covered employee who cannot work because of any injury or illness not related to the job.

## Residential Telephone Service

You cannot deduct any charge (including taxes) for basic local telephone service for the first telephone line to your residence, even if it is used in a trade or business.

## Stockholders' Meetings

You cannot deduct transportation and other expenses you pay to attend stockholders' meetings of companies in which you own stock but have no other interest. You cannot deduct these expenses even if you are attending the meeting to get information that would be useful in making further investments.

## Tax-Exempt Income Expenses

You cannot deduct expenses to produce tax-exempt income. You cannot deduct interest on a debt incurred or continued to buy or carry tax-exempt securities.

If you have expenses to produce both taxable and tax-exempt income, but you cannot identify the expenses that produce each type of income, you must divide the expenses based on the amount of each type of income to determine the amount that you can deduct.

**Example.** During the year, you received taxable interest of \$4,800 and tax-exempt interest of \$1,200. In earning this income, you had total expenses of \$500 during the year. You cannot identify the amount of each expense item that is for each income item. Therefore, 80% ( $\$4,800/\$6,000$ ) of the expense is for the taxable interest and 20% ( $\$1,200/\$6,000$ ) is for the tax-exempt interest. You can deduct, subject to the 2% limit, expenses of \$400 (80% of \$500).

## Travel Expenses for Another Individual

You generally cannot deduct travel expenses you pay or incur for a spouse, dependent, or other individual who accompanies you (or your employee) on business travel. See Publication 463 for more information on deductible travel expenses.

## Voluntary Unemployment Benefit Fund Contributions

You cannot deduct voluntary unemployment benefit fund contributions you make to a union fund or a private fund. However, you can deduct contributions as taxes if state law requires you to make them to a state unemployment fund that covers you for the loss of wages from unemployment caused by business conditions.

## Wristwatches

You cannot deduct the cost of a wristwatch, even if there is a job requirement that you know the correct time to properly perform your duties.

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## How To Report

You must itemize deductions on Schedule A (Form 1040) to claim miscellaneous deductions.

- Report your miscellaneous deductions subject to the 2% limit on lines 20 through 22 and the total on line 23.
- Report your miscellaneous deductions not subject to the 2% limit on line 27.

See *Instructions for Schedule A* in your Form 1040 instruction booklet for more information.

**Form 2106 and Form 2106-EZ.** If you have deductible employee business expenses, you usually must file either Form 2106 or Form 2106-EZ.

You must file Form 2106 or Form 2106-EZ if any of the following applies to you.

1. You are a qualified performing artist claiming performing-artist-related expenses. (See *Performing Artists* under *Deductions Not Subject to the 2% Limit*, earlier.)
2. You are a fee-basis state or local government official claiming expenses in performing that job. (See *Officials Paid on a Fee Basis* under *Deductions Not Subject to the 2% Limit*, earlier.)
3. You are an individual with a disability and are claiming impairment-related work expenses. (See *Impairment-Related Work Expenses* under *Deductions Not Subject to the 2% Limit*, earlier.)
4. You have travel expenses as a member of the Armed Forces reserves that you can deduct as an adjustment to gross income. (See *Armed Forces Reservists Traveling More Than 100 Miles From Home*, earlier.)
5. You are claiming job-related vehicle, travel, transportation, meal, or entertainment expenses. This does not apply if either of the following is true.

- a. None of your expenses are deductible because of the 2% limit on miscellaneous itemized deductions.
- b. Your only entry on Form 2106 or Form 2106-EZ is on line 4. If this is true and (a) above is not true, enter the expenses directly on Schedule A (Form 1040), line 20.

**Who can use Form 2106-EZ.** You can use the shorter Form 2106-EZ instead of Form 2106 if both of the following apply.

- 1. You are not reimbursed by your employer for any expenses. (Amounts your employer included as wages on your Form W-2, box 1, are not considered reimbursements.)
- 2. Either:
  - a. You are not claiming vehicle expense, or
  - b. You are using the standard mileage rate for your vehicle.

**Statutory employee.** If you are a statutory employee, deduct the business expenses related to being a statutory employee on Schedule C or C-EZ (Form 1040).

You are a statutory employee if you meet one of the following four descriptions.

- 1. You are a driver who is either an agent for someone else or paid on commission and you:
  - a. Distribute meat, vegetable, fruit, or bakery products,
  - b. Distribute beverages (other than milk), or
  - c. Pick up and deliver laundry or dry cleaning.
- 2. You are a full-time life insurance sales agent whose principal business activity is selling life insurance or annuity contracts, or both, primarily for one life insurance company.
- 3. You work at home on materials or goods supplied by someone else. That person must provide guidelines for the work you do, and you must return the work to that person or someone else named by that person.
- 4. You are a full-time traveling or city salesperson who works only for one firm or person (except for sideline

sales activities). You turn in orders from customers who are wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments. The goods sold must be merchandise for resale or supplies for use in the buyer's business operation. This work must be your principal business activity.

If you are a statutory employee, you will receive a Form W-2 from your employer with "Statutory employee" checked in box 13.

## Example

Debra Smith is employed as a salesperson. However, she is not a statutory employee. Her adjusted gross income is \$40,000, and she did not receive any reimbursement for her expenses. She has the following qualifying miscellaneous deductions:

Entertainment expenses . . . . .	\$ 500
Transportation expenses . . . . .	500
Home office expenses . . . . .	1,100
Tax return preparation . . . . .	200
Investment counseling . . . . .	300
Gambling losses (reported \$200 as income) . . . . .	200

Her filled-in Form 2106-EZ and part of her Schedule A (Form 1040) are shown. Of Debra's deductions, only gambling losses are not subject to the 2%-of-adjusted-gross-income limit. She enters the gambling losses on Schedule A, line 27. The other items are subject to the 2% limit and are shown on Schedule A, lines 20, 21, and 22.

Debra completes Form 2106-EZ, Part I. She enters the transportation expenses of \$500 on line 2. The home office expenses of \$1,100 are entered on line 4. The entertainment expenses of \$500 are subject to the 50% limit and are entered on line 5. She then completes the rest of the form. The total expenses of \$1,850, shown on line 6, are entered on Schedule A, line 20.

Debra's expenses for tax return preparation are entered on Schedule A, line 21. Her expenses for investment counseling are entered on line 22. She then totals the amounts on lines 20, 21, and 22 and enters this total of \$2,350 on line 23. She enters \$40,000, her adjusted gross income, on line 24. She multiplies this amount by 2% (.02) and enters the result of \$800 on line 25. She subtracts the amount on line 25 from the amount on line 23 and enters \$1,550, her allowable deduction, on line 26.

# Unreimbursed Employee Business Expenses

**2005**

Attachment  
Sequence No. **54A**

Department of the Treasury  
Internal Revenue Service (99)

▶ **Attach to Form 1040.**

Your name <i>Debra Smith</i>	Occupation in which you incurred expenses <i>Salesperson</i>	Social security number <i>111:00:1111</i>
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**You May Use This Form Only if All of the Following Apply.**

- You are an employee deducting ordinary and necessary expenses attributable to your job. An ordinary expense is one that is common and accepted in your field of trade, business, or profession. A necessary expense is one that is helpful and appropriate for your business. An expense does not have to be required to be considered necessary.
- You **do not** get reimbursed by your employer for any expenses (amounts your employer included in box 1 of your Form W-2 are not considered reimbursements for this purpose).
- If you are claiming vehicle expense, you are using the standard mileage rate for 2005.

**Caution:** You can use the standard mileage rate for 2005 **only if:** (a) you owned the vehicle and used the standard mileage rate for the first year you placed the vehicle in service, **or** (b) you leased the vehicle and used the standard mileage rate for the portion of the lease period after 1997.

**Part I Figure Your Expenses**

1 Vehicle expense using the standard mileage rate. Complete Part II and then go to line 1a below.			
a Multiply business miles driven <b>before</b> September 1, 2005, by 40.5¢ (.405)	<b>1a</b>		
b Multiply business miles driven <b>after</b> August 31, 2005, by 48.5¢ (.485)	<b>1b</b>		
c Add lines 1a and 1b	<b>1c</b>		
2 Parking fees, tolls, and transportation, including train, bus, etc., that <b>did not</b> involve overnight travel or commuting to and from work	<b>2</b>	<i>500</i>	
3 Travel expense while away from home overnight, including lodging, airplane, car rental, etc. <b>Do not</b> include meals and entertainment	<b>3</b>		
4 Business expenses not included on lines 1c through 3. <b>Do not</b> include meals and entertainment	<b>4</b>	<i>1,100</i>	
5 Meals and entertainment expenses: \$ <i>500</i> × 50% (.50) (Employees subject to Department of Transportation (DOT) hours of service limits: Multiply meal expenses incurred while away from home on business by 70% (.70) instead of 50%. For details, see instructions.)	<b>5</b>	<i>250</i>	
6 <b>Total expenses.</b> Add lines 1c through 5. Enter here and on <b>Schedule A (Form 1040), line 20.</b> (Armed Forces reservists, fee-basis state or local government officials, qualified performing artists, and individuals with disabilities: See the instructions for special rules on where to enter this amount.)	<b>6</b>	<i>1,850</i>	

**SCHEDULES A&B**  
**(Form 1040)**

## Schedule A—Itemized Deductions

**2005**

Department of the Treasury  
Internal Revenue Service (99)

(Schedule B is on back)

Attachment  
Sequence No. **07**

▶ **Attach to Form 1040.** ▶ **See Instructions for Schedules A&B (Form 1040).**

<b>Job Expenses and Certain Miscellaneous Deductions</b>	20 Unreimbursed employee expenses—job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required. (See page A-8.) ▶		<i>1,850</i>	
(See page A-8.)	21 Tax preparation fees.	<b>21</b>	<i>200</i>	
	22 Other expenses—investment, safe deposit box, etc. List type and amount ▶ <i>Investment counseling</i>	<b>22</b>	<i>300</i>	
	23 Add lines 20 through 22	<b>23</b>	<i>2,350</i>	
	24 Enter amount from Form 1040, line 38   <b>24</b>   <i>40,000</i>	<b>24</b>		
	25 Multiply line 24 by 2% (.02)	<b>25</b>	<i>800</i>	
	26 Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-	<b>26</b>		<i>1,550</i>
<b>Other Miscellaneous Deductions</b>	27 Other—from list on page A-9. List type and amount ▶ <i>gambling losses</i>	<b>27</b>		<i>200</i>

## How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

**Contacting your Taxpayer Advocate.** If you have attempted to deal with an IRS problem unsuccessfully, you should contact your Taxpayer Advocate.

The Taxpayer Advocate independently represents your interests and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels. While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

To contact your Taxpayer Advocate:

- Call the Taxpayer Advocate toll free at 1-877-777-4778.
- Call, write, or fax the Taxpayer Advocate office in your area.
- Call 1-800-829-4059 if you are a TTY/TDD user.
- Visit [www.irs.gov/advocate](http://www.irs.gov/advocate).

For more information, see Publication 1546, How To Get Help With Unresolved Tax Problems (now available in Chinese, Korean, Russian, and Vietnamese, in addition to English and Spanish).

**Free tax services.** To find out what services are available, get Publication 910, IRS Guide to Free Tax Services. It contains a list of free tax publications and an index of tax topics. It also describes other free tax information services, including tax education and assistance programs and a list of TeleTax topics.



**Internet.** You can access the IRS website 24 hours a day, 7 days a week, at [www.irs.gov](http://www.irs.gov) to:

- *E-file* your return. Find out about commercial tax preparation and *e-file* services available free to eligible taxpayers.
- Check the status of your 2005 refund. Click on *Where's My Refund*. Be sure to wait at least 6 weeks from the date you filed your return (3 weeks if you filed electronically). Have your 2005 tax return available because you will need to know your social security number, your filing status, and the exact whole dollar amount of your refund.
- Download forms, instructions, and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- View Internal Revenue Bulletins (IRBs) published in the last few years.

- Figure your withholding allowances using our Form W-4 calculator.
- Sign up to receive local and national tax news by email.
- Get information on starting and operating a small business.



**Phone.** Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call 1-800-829-3676 to order current-year forms, instructions, and publications and prior-year forms and instructions. You should receive your order within 10 days.
- *Asking tax questions.* Call the IRS with your tax questions at 1-800-829-1040.
- *Solving problems.* You can get face-to-face help solving tax problems every business day in IRS Taxpayer Assistance Centers. An employee can explain IRS letters, request adjustments to your account, or help you set up a payment plan. Call your local Taxpayer Assistance Center for an appointment. To find the number, go to [www.irs.gov/local-contacts](http://www.irs.gov/local-contacts) or look in the phone book under *United States Government, Internal Revenue Service*.
- *TTY/TDD equipment.* If you have access to TTY/TDD equipment, call 1-800-829-4059 to ask tax questions or to order forms and publications.
- *TeleTax topics.* Call 1-800-829-4477 and press 2 to listen to pre-recorded messages covering various tax topics.
- *Refund information.* If you would like to check the status of your 2005 refund, call 1-800-829-4477 and press 1 for automated refund information or call 1-800-829-1954. Be sure to wait at least 6 weeks from the date you filed your return (3 weeks if you filed electronically). Have your 2005 tax return available because you will need to know your social security number, your filing status and the exact whole dollar amount of your refund.

**Evaluating the quality of our telephone services.** To ensure that IRS representatives give accurate, courteous, and professional answers, we use several methods to evaluate the quality of our telephone services. One method is for a second IRS representative to sometimes listen in on or record telephone calls. Another is to ask some callers to complete a short survey at the end of the call.



**Walk-in.** Many products and services are available on a walk-in basis.

- *Products.* You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Some IRS offices, libraries, grocery stores, copy centers, city and county government offices, credit unions, and office supply stores have a collection of products available to print from a CD-ROM or photocopy from

reproducible proofs. Also, some IRS offices and libraries have the Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.

- **Services.** You can walk in to your local Taxpayer Assistance Center every business day for personal, face-to-face tax help. An employee can explain IRS letters, request adjustments to your tax account, or help you set up a payment plan. If you need to resolve a tax problem, have questions about how the tax law applies to your individual tax return, or you're more comfortable talking with someone in person, visit your local Taxpayer Assistance Center where you can spread out your records and talk with an IRS representative face-to-face. No appointment is necessary, but if you prefer, you can call your local Center and leave a message requesting an appointment to resolve a tax account issue. A representative will call you back within 2 business days to schedule an in-person appointment at your convenience. To find the number, go to [www.irs.gov/localcontacts](http://www.irs.gov/localcontacts) or look in the phone book under *United States Government, Internal Revenue Service*.



**Mail.** You can send your order for forms, instructions, and publications to the address below and receive a response within 10 business days after your request is received.

National Distribution Center  
P.O. Box 8903  
Bloomington, IL 61702-8903



**CD-ROM for tax products.** You can order Publication 1796, IRS Tax Products CD-ROM, and obtain:

- A CD that is released twice so you have the latest products. The first release ships in late December and the final release ships in late February.

- Current-year forms, instructions, and publications.
- Prior-year forms, instructions, and publications.
- Tax Map: an electronic research tool and finding aid.
- Tax law frequently asked questions (FAQs).
- Tax Topics from the IRS telephone response system.
- Fill-in, print, and save features for most tax forms.
- Internal Revenue Bulletins.
- Toll-free and email technical support.

Buy the CD-ROM from National Technical Information Service (NTIS) at [www.irs.gov/cdorders](http://www.irs.gov/cdorders) for \$25 (no handling fee) or call 1-877-233-6767 toll free to buy the CD-ROM for \$25 (plus a \$5 handling fee).



**CD-ROM for small businesses.** Publication 3207, The Small Business Resource Guide CD-ROM for 2005, has a new look and enhanced navigation features. This year's CD includes:

- Helpful information, such as how to prepare a business plan, find financing for your business, and much more.
- All the business tax forms, instructions, and publications needed to successfully manage a business.
- Tax law changes for 2005.
- IRS Tax Map to help you find forms, instructions, and publications by searching on a keyword or topic.
- Web links to various government agencies, business associations, and IRS organizations.
- "Rate the Product" survey—your opportunity to suggest changes for future editions.

An updated version of this CD is available each year in early April. You can get a free copy by calling 1-800-829-3676 or by visiting [www.irs.gov/smallbiz](http://www.irs.gov/smallbiz).



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