

**PART 5e—TEMPORARY INCOME
TAX REGULATIONS, TRAVEL EXPENSES OF MEMBERS OF CONGRESS**

AUTHORITY: Secs. 280A(f)(4)(B) and 7805 of the Internal Revenue Code of 1954 (95 Stat. 1641, 26 U.S.C. 7805; 68A Stat. 917, 26 U.S.C. 7805).

§ 5e.274-8 Travel expenses of Members of Congress.

(a) *In general.* Members of Congress (including any Delegate and Resident Commissioner) who are away from home within the meaning of section 162 (a), in the Washington, DC area, may elect in accordance with paragraph (f) of this section to deduct an amount described in paragraph (c) of this section as living expenses, without substantiation. A Member who elects under this section may not deduct any amount for the living expenses described in paragraph (b). A Member who does not make an election under this section must substantiate his expenses for living in Washington, DC in accordance with section 274 and § 1.274-5.

(b) *Living expenses covered.* The amount allowed to be deducted without substantiation, pursuant to this section, for costs incurred for living in the Washington, DC area represents amounts expended for meals, lodging, and other incidental expenses. Meals include the actual cost of the food and expenses incident to the preparation and serving thereof. Lodging includes amounts paid for rent, care of premises, utilities, insurance and depreciation of household furnishings owned by the Member. In the case of a Member who lives in a residence owned by him in the Washington, DC area, the cost of lodging also includes depreciation on such residence. Other incidental expenses include laundry, cleaning, and local transportation. Local transportation includes travel within a 50 mile radius of Washington, DC, whether by private automobile, taxicab or other transportation for hire. Interest and

taxes on personal property will not be considered expenses to be included within this paragraph.

(c)(1) *Amounts allowed without substantiation.* The amount that may be deducted pursuant to section 162 and these regulations is an amount equal to the product of the number of Congressional days in the taxable year, multiplied by the designated amount. The designated amount is—

(i) In the case of a Member who deducts interest and taxes attributable to the ownership of a personal residence in the Washington, DC area, two-thirds of the maximum amount of actual subsistence for Washington, DC payable pursuant to 5 U.S.C. 5702(c), or

(ii) In the case of a Member not described in paragraph (c)(1)(i), the maximum amount of actual subsistence for Washington, DC payable pursuant to 5 U.S.C. 5702(c).

A Member who incurs interest and taxes on his residence in the Washington, DC area may forego the deduction of such amounts and use the designated amount prescribed by paragraph (c)(1)(ii).

(2) If a Member, who lives in a residence owned by him in the Washington, DC area, chooses to deduct amounts prescribed in paragraph (c)(1) of this section, the Member must treat as an adjustment to the basis of such residence an amount equal to 20 percent of the maximum amount of actual subsistence multiplied by the number of Congressional days. Such adjustments will be considered a proper adjustment for exhaustion, wear, and tear under this subtitle.

(d) *Congressional days.* The number of Congressional days with respect to a Member is the number of days in the taxable year less the number of days in periods in which the Member's Congressional chamber was not in session for 5 consecutive days or more (including Saturday and Sunday). The number of days with respect to a Member is determined without regard to whether or not the Member was in the Washington, DC area on such days.

▽ ▽ ▽ 198X ▽ ▽ ▽													
JANUARY							JULY						
Sun	M	Tu	W	Th	F	Sat	Sun	M	Tu	W	Th	F	Sat
		1	2	3	4	5			1	2	3	4	5
6	7	8	9	10	11	12	6	7	8	9	10	11	12
13	14	15	16	17	18	19	13	14	15	16	17	18	19
20	21	22	23	24	25	26	20	21	22	23	24	25	26
27	28	29	30	31			27	28	29	30	31		
FEBRUARY							AUGUST						
					1	2	3	4	5	6	7	8	9
3	4	5	6	7	8	9	10	11	12	13	14	15	16
10	11	12	13	14	15	16	17	18	19	20	21	22	23
17	18	19	20	21	22	23	24	25	26	27	28	29	30
24	25	26	27	28	29		31						
MARCH							SEPTEMBER						
					7	8	1	2	3	4	5	6	
2	3	4	5	6	7	8	7	8	9	10	11	12	13
9	10	11	12	13	14	15	14	15	16	17	18	19	20
16	17	18	19	20	21	22	21	22	23	24	25	26	27
23	24	25	26	27	28	29	28	29	30				
30	31												
APRIL							OCTOBER						
6	7	8	9	10	11	12	5	6	7	8	9	10	11
13	14	15	16	17	18	19	12	13	14	15	16	17	18
20	21	22	23	24	25	26	19	20	21	22	23	24	25
27	28	29	30				26	27	28	29	30	31	
MAY							NOVEMBER						
					2	3							
4	5	6	7	8	9	10	2	3	4	5	6	7	8
11	12	13	14	15	16	17	9	10	11	12	13	14	15
18	19	20	21	22	23	24	16	17	18	19	20	21	22
25	26	27	28	29	30	31	23	24	25	26	27	28	29
							30						
JUNE							DECEMBER						
1	2	3	4	5	6	7							
8	9	10	11	12	13	14	7	8	9	10	11	12	13
15	16	17	18	19	20	21	14	15	16	17	18	19	20
22	23	24	25	26	27	28	21	22	23	24	25	26	27
29	30						28	29	30	31			

(e) *Other deductible amounts.* This section does not preclude the deduction of otherwise allowable expenses for travel fares (other than local travel in the

Washington, DC), long distance telephone and telegraph, and travel expenses incurred other than in the Washington, DC area. However, such

expenses are subject to the substantiation requirements of section 274.

(f) *Election.* To elect to deduct the amounts prescribed by this section, a Member must attach to his return for the taxable year a statement indicating, (1) that the deduction for travel expenses while living in the Washington, DC area are computed pursuant to §5e.274-8, and (2) whether a separate deduction is being taken for interest and taxes paid or incurred with respect to the personal residence of the Member if in the Washington, DC area.

(g) *Effective date.* This section is effective for taxable year beginning after December 31, 1980.

(h) *Examples.* The following examples are based on a calendar from a Final Edition of the Calendar of the United States, House of Representatives and History of Legislation. The marked days indicate days the House of Representatives was in session.

Example 1. In determining the number of Congressional days for 198X for which the designated amount may be computed, the number of days in such year is reduced by 125 days determined as follows:

	Days
Feb. 14-18	5
Apr. 3-14	12
May 23-27	5
July 3-20	18
Aug. 2-17	16
Aug. 29-Sept. 2	5
Oct. 3-Nov. 11	40
Nov. 22-Nov. 30	9
Dec. 17-Dec. 31	15
Total	125

Thus for 198X (a leap year) a typical Member of the House of Representatives will have 241 (366-125) Congressional days.

Example 2. On August 1, Z a calendar year taxpayer is elected to the Congress to fill the unexpired term of Member Y. In determining the number of Congressional days, Z may only consider the number of days during the year for which he was a Member of Congress. For Z the number of Congressional days is 68.

Example 3. Member X, a calendar year taxpayer, owns his own home in Washington, DC, where he lives with his family. While in Washington, DC, Member X is away from home within the meaning of section 162(a). X maintains no records attributable to his expenses in Washington, DC X has been a Member of Congress for the entire year. The maximum amount of subsistence for Washington, DC for 198X is \$75. X may deduct for 198X

\$18,075 (241 days×\$75) attributable to expenses while away from home in Washington, DC. Even if X maintained records as to living expenses in Washington, DC, X may choose to deduct \$18,075 as the total amount attributable to living expenses in Washington, DC. If X deducts \$18,075 X may not deduct any interest and taxes under section 163 or 164 attributable to the residence in Washington, DC.

Example 4. Member C, a calendar year taxpayer owns his own home in Washington, DC, where he lives with his family. While in Washington, DC. Member C is away from home within the meaning of section 162(a). C can establish that he paid \$12,000 as interest on a mortgage and \$3,000 in local real estate taxes. C has been a Member of Congress for the entire year. C may choose to deduct \$12,050 (241 days×[$\frac{2}{3}$ ×\$75]) attributable to expenses in Washington, DC. Further, C may deduct under sections 163 and 164 \$12,000 of interest and \$3,000 of taxes respectively.

Example 5. Assume the same facts as in Example (4). In addition, on March 15, 16, and 17, Member C travels to New York City to deliver a speech for which he receives an honorarium which he includes in income. C receives no additional amounts for travel reimbursement. While in New York City C incurs \$350 for 3 nights lodging at a hotel and \$150 for meals. In addition to the amounts deductible pursuant to this section, C may deduct the \$500 as a travel expenses. Such deduction is subject to the substantiation rules of section 274.

Example 6. Assume the same facts as example (5). Member C receives, in addition to the honorarium, \$600 reimbursement for travel expenses. C must include the \$600 in income and may deduct the travel expenses he incurred.

[T.D. 7802, 47 FR 2987, Jan. 21, 1982; 47 FR 4680, Feb. 2, 1982]

PART 5f—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

- Sec.
- 5f.103-1 Obligations issued after December 31, 1982, required to be in registered form.
- 5f.103-2 Public approval of industrial development bonds.
- 5f.103-3 Information reporting requirements for certain bonds.
- 5f.163-1 Denial of interest deduction on certain obligations issued after December 31, 1982, unless issued in registered form.
- 5f.163(f)(8)-1 Questions and answers concerning transitional rules and related matters regarding certain safe harbor leases.