January 2020

Pennsylvania legislator:

The 2017 Tax Cuts and Jobs Act (TCJA) ushered in many significant changes to federal income tax filing, including the elimination of most miscellaneous itemized deductions. On behalf of the Pennsylvania Institute of Certified Public Accountants (PICPA), I am writing to provide clarification on the matter of state legislators’ travel expenses while away from home in order to assist members of the Pennsylvania General Assembly with their federal income taxes filing.

Prior to the enactment of the TCJA, a state legislator generally could claim a deduction for certain expenses incurred while away from home in your capacity as an elected official if you itemized your deductions on Schedule A. That provision was found in Section 162(h)—State Legislators’ Travel Expenses Away from home—of the Internal Revenue Code (IRC). Section 162(h) allowed a state legislator, while away from home, at any time during the year to deduct living and other expenses attributable to the trade or business of performing services. Also known as the “4-day rule,” the provision defined a legislative day during any taxable year as any day when the legislature was in session (including days in which the legislature was not in session for a period of four consecutive days or less).

The TCJA eliminates all miscellaneous itemized deductions that are not specifically delineated in Section 67(b) (“two-Percent floor” deduction) of the IRC. While the TCJA did not eliminate Section 162(h), the provision is not included in the list of allowed deductions enumerated in Section 67(b). Therefore, it is PICPA’s understanding that Pennsylvania legislators would be precluded from deducting these expenses for federal income tax purposes for years beginning after Dec. 31, 2017, and before Jan. 1, 2026.

There are certainly other implications and changes in the TCJA that may impact your income tax returns, and we urge you to consult your tax advisor to ensure all applicable areas have been addressed.

As always, please do not hesitate to contact the PICPA Government Relations Team at (717) 232-1821 if we can be of additional assistance.

Sincerely,

[Signature]

Peter Calcara, CAE
PICPA Vice President—Government Relations