OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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Dear :

This letter responds to your inquiry to Senator Jim Webb. Senator Webb wrote to us on your behalf and asked us to respond to you directly about the difference between the standard mileage rate for deducting or accounting for expenses for medical purposes and the rate used for business purposes. I am pleased to provide the following general information.

Generally, taxpayers can claim a deduction for all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business (section 162 of the Internal Revenue Code (the Code)). Business expenses include operating expenses of automobiles used in a trade or business and insurance premiums (section 1.162-1(a) of the Income Tax Regulations (the Regulations)). Taxpayers can also take a deduction for the cost of incidental repairs to business property that do not materially add to its value or appreciably prolong its life (section 1.162-4 of the Regulations). The law also allows depreciation for the exhaustion, wear, and tear on property used in a trade or business or held for the production of income (sections 167 and 168 of the Code).

Generally, taxpayers can claim a deduction for the expenses paid during the taxable year for medical care of the taxpayer, his spouse, or a dependent (section 213 of the Code), subject to certain limitations. The taxpayer must have paid the expenses during the taxable year (section 1.213-1(a) of the Regulations).

For either business or medical purposes, a taxpayer only may deduct allowable automobile expenses. If the taxpayer maintains adequate records or other sufficient evidence for proper substantiation, the taxpayer can claim a deduction for actual allowable automobile expenses (Rev. Proc. 2008-72, § 1). Alternatively, a taxpayer can use standard mileage rates, which the Internal Revenue Service publishes. The IRS contracts with an independent contractor to conduct an annual study of the fixed and variable costs of operating an automobile (Rev. Proc. 2008-72, § 2.02). For 2009, the standard mileage rate is 24 cents per mile for medical purposes and 55 cents per mile for business purposes (Rev. Proc. 2008-72). The mileage rate for medical claims filed through a flexible spending account is the same as the standard medical mileage rate (*see* Publication 969, *Health Savings Accounts and Other Tax-Favored Health Plans*, *Flexible Spending Arrangements (FSAs)*, a highlighted copy of which is attached).

The amounts of automobile expenses a taxpayer can deduct for business purposes is different from the amounts a taxpayer can deduct for medical purposes. For business purposes, a taxpayer can deduct both the out-of-pocket variable expenses of the vehicle (such as gasoline and oil), and the fixed expenses (such as depreciation, lease payments, and license and registration fees). Thus the standard business mileage rate reflects both fixed and variable costs (*see* § 5.03 of Rev. Proc. 2008-72). On the other hand, the taxpayer can deduct as a medical expense only the out-of-pocket variable expenses of the automobile (including gasoline and oil) and cannot deduct fixed costs, (*see* § 7.03 of Rev. Proc. 2008-72; *see also* Publication 502, Medical and Dental Expenses, *What Medical Expenses are Includible*, *Transportation*, a highlighted copy of which is attached). Therefore, the standard business mileage rate is higher than the standard medical mileage rate.

I hope this information on certain general principles of the law is helpful. This letter is for informational purposes only and does not constitute a ruling (Revenue Procedure 2009-1, section 2.04, 2009-1 Internal Revenue Bulletin (January 5, 2009)). If you have any questions, please contact , Identification Number , or , Identification Number , at .

Sincerely,

JOHN P. MORIARTY
Chief, Branch 1
(Income Tax & Accounting)

Enclosure

cc: The Honorable Jim Webb
Attention: