



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

OFFICE OF
CHIEF COUNSEL

June 19, 2006

Number: **INFO 2006-0030**

Release Date: 9/29/2006

UIL: 9999.98-00

CONEX-122912-06

Dear

Senator Ron Wyden asked me to respond to your letter dated April 11, 2006, about the standard mileage rates that we recently published in Rev. Proc. 2005-78, 2005-2 C.B. 1177. You said the standard mileage rate for medical purposes should be the same as the standard mileage rate for business use. As discussed below, the deductions allowed under the Internal Revenue Code for medical expenses differ from the deductions allowed for business expenses, and the standard mileage rates reflect these differences.

For business expenses, sections 162(a) and 167 of the Code allow a deduction, and section 274 disallows those deductions unless substantiated, for ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. The business standard mileage rate, which reflects these expenses of owning and using an automobile for business purposes, is 44.5 cents per mile for all miles of use for business purposes on or after January 1, 2006.

For medical expenses, section 213 allows a deduction for expenses paid during the taxable year, not compensated by insurance or otherwise, for medical care, and includes transportation primarily for and essential to medical care. In *Weary v. United States*, 510 F.2d 435 (10th Cir. 1975), and *Calafut v. Commissioner*, T.C.M. 1964-239, the courts held that only out-of-pocket expenses of operating an automobile are deductible as medical expenses. Further, section 7.03 of Rev. Proc. 2005-78 provides that the medical standard mileage rate is in lieu of the actual operating expenses allocable to these purposes. The medical standard mileage rate is 18 cents per mile for expenses incurred for the use of an automobile to obtain medical care on or after January 1, 2006, and is lower than the business standard mileage rate.

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I hope this information is helpful. If you have any questions or require further information please call _____ at _____

Sincerely,

George Baker
Branch Chief, Branch 7
(Income Tax & Accounting)

cc: