

# Lessons from the Tax Court: Taxes stalk celeb bodyguard

Under prior law, unreimbursed employee business expenses could be deducted, along with other miscellaneous expenses, subject to a deduction threshold of 2% of adjusted gross income (AGI). But for 2018-2025, the Tax Cuts and Jobs Act (TCJA) eliminates most miscellaneous expense deductions (including the one for unreimbursed employee business expenses).

In a new decision, a taxpayer who worked as a bodyguard for celebrities tried to deduct a wide range of unreimbursed expenses. Eventually, the case went to court. (*Colbert TC Summary Opinion 2018-2/6/18*)

**Facts:** A security firm employed the taxpayer, a retired policeman, in 2013. Typically, he performed services for Hollywood celebrities, usually traveling to their homes and worksites, while doing administrative work at home. Among other duties, the taxpayer warded off paparazzi, chauffeured celebrities, monitored construction at their homes, installed and monitored security devices, patrolled their home grounds, controlled access by visitors and guests and responded to emergency and distress calls. He carried a concealed pistol on the job.

On his 2013 return, the taxpayer reported wages of more than \$25,000, but claimed a deduction for unreimbursed employee business expenses of almost \$20,000 after applying the 2%-of-AGI floor. The IRS disallowed the deduction for many of the expenses due to lack of substantiation.

At trial, the IRS conceded the taxpayer had substantiated the other expenses, but questioned whether they constituted "ordinary and necessary" business expenses.

**Tax Court outcome:** The Court permitted deductions for replacement of the pistol and target practice, the cost of an earbud to avoid annoying celebrity clients, a flashlight for evening patrols and sanitary handwipes and similar expenses. But it shot down deductions for the following:

- The cost of clothing and shoes and dry cleaning the work attire
- Expenses for newspapers and magazines, a gym membership, weight loss pills and satellite radio
- Home office expenses because the room claimed by the taxpayer as a home office wasn't used exclusively for business
- An iPad and printer
- Communication expenses (e.g., Verizon service and an iPhone and cover).

The new decision shows, once again, that personal expenses generally can't be converted into deductible business expenses.

**Tip:** With the TCJA disallowance of miscellaneous deductions, negotiate with your employer for tax-free reimbursements of business expenses.