



**TIM KELLY & ASSOCIATES**  
**ATTORNEYS AT LAW**  
 7801 N. Pershing Avenue  
 Stockton, CA 95207-1749  
 Phone and FAX 800-259-3372  
 www.timkelly.com

**Timothy E. Kelly, Esq.\***  
[tim@timkelly.com](mailto:tim@timkelly.com)  
**Kevin W. Rego, Esq. LL.M.\***  
[kevin@timkelly.com](mailto:kevin@timkelly.com)  
**Douglas Bodemann, EA**  
[bodemanntax@yahoo.com](mailto:bodemanntax@yahoo.com)  
**Lynn M. Kelly, Manager**  
[lynn@timkelly.com](mailto:lynn@timkelly.com)

\*Certified Specialist in Taxation  
 Law, State Bar of California  
 Board of Legal Specialization

## 2017 PUBLIC SAFETY TAX DEDUCTION CHECKLIST

NAME(S) \_\_\_\_\_

AGENCY/AGENCIES \_\_\_\_\_

OK TO COMBINE  
 SPOUSE/RDP EXPENSE

### Union Dues/Professional Memberships

Union Dues per year \_\_\_\_\_

Other Associations/LDF \_\_\_\_\_

### Equipment

ASP/Baton/OC Spray \_\_\_\_\_

Ballistic Vest/Cover \_\_\_\_\_

Binoculars \_\_\_\_\_

Briefcase/Duty Bag \_\_\_\_\_

Camera & Equipment \_\_\_\_\_

GPS Receiver \_\_\_\_\_

Ear/Eye Protection \_\_\_\_\_

Firearms & Components SEE PAGE #4

Firearms Equipment \_\_\_\_\_

Flashlight/Charger \_\_\_\_\_

Gun Safe \_\_\_\_\_

Handcuffs/Restraints \_\_\_\_\_

Knife \_\_\_\_\_

Leather/Nylon Gear \_\_\_\_\_

Radio Earpiece \_\_\_\_\_

Voice Recorder \_\_\_\_\_

### Uniforms

Boots/Shoes \_\_\_\_\_

Class A, B, C, D \_\_\_\_\_

Logo T-shirts/Caps \_\_\_\_\_

Gloves/Leather/Latex \_\_\_\_\_

Hat/Head Gear \_\_\_\_\_

Jacket/Parka \_\_\_\_\_

Jump Suit \_\_\_\_\_

Patches/Chevrons \_\_\_\_\_

Raid Gear \_\_\_\_\_

Rain Gear \_\_\_\_\_

Tailoring/Alterations \_\_\_\_\_

Tie/Tie Bar/Name Plate \_\_\_\_\_

K9 Expenses \_\_\_\_\_

Dry Cleaning per year \_\_\_\_\_  
 (keep the receipts)

### Other Expenses

Ammunition & Range Fees \_\_\_\_\_

Self-Defense Training \_\_\_\_\_

### Unreimbursed Business Miles (Annual)

Court \_\_\_\_\_miles

Uniform store \_\_\_\_\_miles

Range \_\_\_\_\_miles

Temporary work locations (including offsite training or K9 POV use)

\_\_\_\_\_miles

Job seeking \_\_\_\_\_miles

Job related Education \_\_\_\_\_miles

### Public Safety Retirees

who paid insurance premiums directly from retirement

Amount paid \$ \_\_\_\_\_

### Cellular Phone Use

Total Monthly Bill (employee portion only) \$ \_\_\_\_\_

Percentage of Business Use \_\_\_\_\_%

**Job Related Education<sup>1</sup>**

Tuition paid \_\_\_\_\_

Books & Supplies \_\_\_\_\_

If a degree program, describe course of study

\_\_\_\_\_

**Charitable Contributions of Money**

*(By law, you must have either a cancelled check, a credit card receipt or a letter from the charity showing the date of each donation and the amount in order to deduct money-**purely cash donations cannot be deducted**)*

\$ \_\_\_\_\_  
TOTAL MONEY CONTRIBUTIONS

**Charitable Contribution of Property**

*Contributions under \$250 require a receipt from the charity or records containing the date and type of the donation. For donations of a fair market value over \$250 you must have a receipt. All donations should be photographed and a list of donated items must be retained with the source of the valuation of the property- DO NOT JUST "GUESS" A VALUE - if your value is not supported it will not be allowed by the IRS*

Charity Fair Market Value

Charity	Fair Market Value

<sup>1</sup> Job related education means the instruction maintains or improves required skills of your present job, and does not qualify you for an entry level license or certificate. The IRS has been very strict in this area recently and will disallow law enforcement management degrees if you cannot show you are in some kind of leadership capacity.

**NEW DEPENDENT INFORMATION**

New dependent(s) in 2017? Yes  No

#1  
SSN \_\_\_\_\_

NAME \_\_\_\_\_

DOB \_\_\_\_\_

RELATIONSHIP \_\_\_\_\_

#2  
SSN \_\_\_\_\_

NAME \_\_\_\_\_

DOB \_\_\_\_\_

RELATIONSHIP \_\_\_\_\_

**CHILD CARE INFORMATION**

NO CHILD CARE EXPENSE

Participate in Dependent Care Benefits (pre-tax through payroll)? Yes  No

**Provider # 1**  
Name \_\_\_\_\_

***If provider # 1 is new:***

Tax ID \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_

**IMPORTANT - EVEN IF YOU PARTICIPATE IN DEPENDENT CARE BENEFITS, YOU MUST PROVIDE ALL CHILD CARE INFORMATION FOR THE IRS**

Amount paid to provider #1 \_\_\_\_\_

Amount paid per child to provider #1

Name Amount

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

**Provider #2 Name**

\_\_\_\_\_

***If provider # 2 is new:***

Tax ID \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ Zip \_\_\_\_\_

\_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_

Amount paid to provider #2 \_\_\_\_\_

Amount paid per child to provider #2

Name Amount

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

**FOREIGN BANK ACCOUNT**

Name of country or countries where foreign account are held:

Check here if you have no foreign bank accounts

IF YOUR BANK ACCOUNT FOR DIRECT DEPOSIT OF ANY REFUND HAS **CHANGED** SINCE LAST YEAR **OR YOU ARE A NEW CLIENT**— LIST THE ACCOUNT BELOW

BANK ROUTING NUMBER

BANK ACCOUNT NUMBER

CHECKING

SAVINGS

OTHER TYPE OF ACCOUNT

**Total Medical Expenses Paid** (**only** amounts exceeding 10% of adjusted gross income (AGI) are deductible for federal purposes and 7.5% of AGI for California-do not include pre-tax insurance premiums deducted from wages)

\$ \_\_\_\_\_

**Total Property Taxes Paid** (**do not include rentals**)

\$ \_\_\_\_\_

**Deductible DMV Fees** (**Only the Vehicle License Fee**)

\$ \_\_\_\_\_

**Total Student Loan Interest paid in 2017**

\$ \_\_\_\_\_

**Tuition paid out of pocket for non-job related education (college level)**

Note: children must be dependents to be eligible for the credit

Note: be sure to include the amount actually paid and not the amount billed

**ATTACH FORMS 1098-T**

**Family Member Amount Level**


**Please use the following codes:**

- U**-student does not have a bachelors degree-and is a full time student
- G**-Graduate Student
- P**-Part time student (less than half time)

**Mortgage Interest Paid on your 1<sup>st</sup> and 2<sup>nd</sup> residence- may be houses/timeshares/boats/RVs (do not include rentals)**

Lender	Amt.	HELOC?
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

HELOC=Home Equity Loan

**NEW CLIENTS ONLY**

Last years tax preparation costs

\_\$ \_\_\_\_\_

State tax refunds from prior years received in 2017

\$ \_\_\_\_\_

State tax paid for prior years in 2017

\_\$ \_\_\_\_\_

\$ \_\_\_\_\_

Mortgage Insurance Premiums

# FIREARMS and AMMUNITION

## Introduction

The deduction of firearms is very problematic and is one of the most controversial areas in litigation with the IRS. While there is no such thing as a particular limit (such as "one gun a year") on the purchase of weapons, there are other guidelines of which you must be aware. These guidelines involve the use of the weapon and the cost of the weapon, and involve the support of the employer. We have handled over one thousand audits, appeals and court cases involving this area, so what we discuss here is not just speculation but based on real experience. This is an area where many tax preparers are willing to allow large deductions despite having no knowledge of the potential consequences just to keep their clients happy and collect their fees. Our clients often spend thousands of dollars on such purchases, and losing such a deduction can be very costly.

## Use of the Weapon and Purchase of Ammunition

Because the Internal Revenue Code requires an employee expense to be ordinary and necessary, any weapon you purchase must be one which you carry in the line of duty, or as an off-duty weapon, in the sense that this is an "ordinary," or common expense. In addition, as with all other deductions, no matter how job-related an expense may be, if it can be considered "personal" it will not be deductible. Because of the unique nature of these expenses, the purchase of any weapon aside from a handgun which you are permitted to carry on or off duty is going to require a letter from your employer to the effect you were required to make the purchase, or that you are authorized to carry the weapon in the course of your duties. Hobby weapons and "practice" weapons are not going to pass this test, and if you deduct them as expenses your chances of prevailing in a challenge are not impossible, but slim.

Example You are patrol rifle qualified but your agency provides your weapon. You decide to purchase a similar weapon in order to maintain your long gun proficiency on your own time. Is this a deductible purchase? The IRS, and the Tax Court will most likely consider this a personal expense. The IRS is aware of the liability of the patrol rifle program, and presumes that the necessary proficiency training is therefore an integral part of routine training. In order to deduct this personal purchase you would have to show the training provided by your agency is inadequate. This would be extremely difficult to do. The burden is on you to show the personal weapon is necessary. Without an official letter from your agency to this effect a successful defense will be almost impossible.

Example You are patrol rifle qualified and the agency allows you to purchase your own weapon and carry it. This is relatively easy to defend, but it will be absolutely necessary to have an official letter to spell this out in detail. At our firm we are also aware of the fact our clients purchase rifle components separately, and we have often had to explain how this works. The IRS, like the general public simply assumes rifles come in one piece. The agency letter should include language as to your authorization to not only carry your own weapon, but to the fact you are authorized to "build" your own weapon.

Example Every year you buy a new gun but you don't dispose of any others. The government is going to argue these purchases are not "necessary," as required by the Tax Code. After all, you already own other guns purchased in previous years. You have to justify each subsequent purchase. Again, at our firm we are very familiar with the job, and have successfully argued that multiple weapons are necessary because of the multiple environments in which our clients work. We demonstrate the need for primary service weapons, even more than one, as well as weapons for off-duty, court, low profiles and of course for back-up. But even we are going to run out of justification after the purchase of the third or fourth full size service handgun.

Example You purchase ammunition to use with either a personal weapon or an agency weapon. This is not so difficult to defend. At our firm we are well aware of the outrageous increase in the cost of rifle ammunition, as well as the budget restraints of recent years. We have carefully documented these facts in our litigation and have been successful in deducting a reasonable amount of personally purchased ammunition.

Example You purchase thousands of dollars of reload equipment to beat the skyrocketing cost of ammunition. To the IRS and the Tax Court, this is indicative of a hobby expense rather than a professional expense. We have had limited success in deducting a portion of these costs, again basing the “necessary” part on the ammo market, but only to a reasonable amount.

Cost of the Weapon

Here is another area where the IRS and the Tax Court have strong opinions. In our interactions in both administrative and judicial hearings, we found the government accepted the average cost of a handgun (Glock, Smith, SIG, etc.) at about \$600-\$800. Once we established this range as typical, we had almost no problems in deducting these purchases. But remember to be deductible an employee expense must be “ordinary and necessary.” So when defending the purchase of a custom .45 ACP which can cost several thousand dollars, we encountered substantial hostility. We won some and we lost some. Whether we prevailed depended entirely on the ability of the client to make their case for the need to spend \$2500 on a handgun when a \$600 model could have been purchased. So while not impossible to defend, you must be prepared to present a compelling case, the more so as the cost of the weapon sought to be deducted increases.

Summary

Employee expenses must be ordinary and necessary, and not personal in order to be deductible. Buying a reasonable number of weapons which you are able to justify as being an ordinary expense of your particular assignment or assignments is not a problem. Buying multiple weapons, or buying more and more weapons every year without disposing of those purchased in prior years is not going to be acceptable in the event of a challenge unless you are specifically able to justify each purchase. Nor is spending thousands of dollars on multiple firearms not usable in your duties going to viewed as anything but a hobby expense.

We believe our firm is better equipped than anyone to defend your reasonable firearm and ammunition expense, but this knowledge is tempered by actual, extensive experience defending these positions. Unlike tax preparers who tell you what you want to hear so you won’t go to another preparer who “deducts everything,” we are going to only tell you what we know to be true.

FIREARMS PURCHASES

DESCRIPTION	DATE PURCHASED	USE	AMOUNT PAID

**ADDITIONAL EXPENSES AND DEDUCTIONS NOT LISTED ABOVE**

Before completing this section please see below for items which are not deductible

ITEM	COST

**EXPENSES WHICH ARE NOT DEDUCTIBLE UNDER CURRENT STATUTE, CASE LAW AND IRS GUIDANCE**

1. Civilian clothes – this means no suits/dress clothes, work out clothing, running or gym shoes. The IRS is now enforcing to the letter the requirement that to be deductible an item of clothing must be part of a distinctive uniform and cannot be suitable for every day street wear.
2. Gym fees or the purchase of fitness equipment
3. Haircuts
4. On duty meals
5. Wristwatch
6. Home telephone
7. Laptop computers – in order to successfully deduct a laptop computer you must obtain a letter from your employer to the effect you were required to purchase the computer as a condition of employment, and that the employer will not provide reimbursement for this purchase.

**FURTHER BACKGROUND ON WHY THESE ITEMS ARE NOT DEDUCTIBLE**

Common sense says that if an item is required by your employer it should be deductible – a suit for a detective assignment or a wristwatch. And this is in the fact the basis for Internal Revenue Code § 162, which allows you, as an employee to deduct ordinary and necessary, unreimbursed expenses of your job. **But unfortunately that is not the end of it.** The IRS maintains, and the courts have asserted, that a different section, Internal Revenue Code § 262 trumps the “ordinary and necessary” language of § 162. Section 262 simply prohibits the deduction of personal expenses, and everything on the list above is considered a personal expense, either through an IRS Revenue Ruling or a court decision. Nor does it matter, for instance, that you would never wear a suit if you did not have to go to court – it is still a personal expense. The IRS has become much stricter in this area, as well as in the area of charitable contributions in the past two years, which is why you may have seen some of these items on one of our checklists in a prior year.