

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

July 1, 1987

Honorable William A. Sederburg
 State Senator
 Twenty-fourth District
 120 State Capitol
 Lansing, Michigan 48909

Dear Senator Sederburg:

This is in response to your inquiry concerning the applicability of the Campaign Finance Act (the Act), 1976 PA 388, as amended, to certain expenses incurred by an officeholder when his or her spouse is a companion on a business trip. Specifically, you ask whether it is "an appropriate expenditure of O.E.F. dollars to reimburse an elected official for expenses incurred by him/her because his/her spouse accompanied the official on a trip made by the official in [the] line of his/her official duty."

Officeholder expense funds (OEF's) are regulated by section 49 of the Act (MCL 169.249). This section states:

"Sec. 49. (1) An elected public official may establish an officeholder expense fund. The fund may be used for expenses incidental to the person's office. The fund may not be used to make contributions and expenditures to further the nomination or election of that public official.

(2) The contributions and expenditures made pursuant to subsection (1) are not exempt from the contribution limitations of this act but any and all contributions and expenditures shall be recorded and shall be reported on forms provided by the secretary of state and filed not later than January 31 of each year and shall have a closing date of January 1 of that year.

(3) A person who knowingly violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than \$1000.00 or imprisoned for not more than 90 days, or both."

The only disbursements authorized by this section are for "expenses incidental to office," a term not defined in the Act. However, as stated in an interpretive statement issued to Maurice Kelman, dated July 18, 1986, the phrase does not include the conversion of OEF assets to personal use. Therefore, if the travel expenses of a spouse are incidental to office, the official incurring the

expense may be reimbursed from his or her officeholder account. Conversely, if the expenses are personal in nature, reimbursement is prohibited. This determination can only be made on a case by case basis.

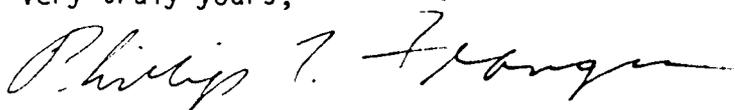
You indicate that "expenses incurred because of a spouse traveling with an individual are recognized as legitimate business expenses by the I.R.S." However, according to I.R.S. regulations such expenses are deductible only if the spouse's presence on a trip has a bona fide business purpose. Specifically, 26 C.F.R. §1.162-2(c) provides:

"(c) Where a taxpayer's [spouse] accompanies him[/her] on a business trip, expenses attributable to her[/his] travel are not deductible unless it can be adequately shown that the [spouse's] presence on the trip has a bona fide business purpose. The [spouse's] performance of some incidental service does not cause her[/his] expenses to qualify as deductible business expenses. The same rules apply to any other member of the taxpayer's family who accompany him[/her] on such a trip."

This approach may be useful in determining whether spousal travel expenses are incidental to office. If an officeholder's spouse performs little or no office-related services when traveling with the official, his or her expenses are clearly not incidental to office. However, if the spouse's presence has a bona fide business or office-related purpose, his or her travel expenses may be paid or reimbursed by the official's OEF, provided the services performed by the spouse are identified in the OEF report filed by that public official.

This response is informational only and does not constitute a declaratory ruling because a ruling was not requested.

Very truly yours,



Phillip T. Frangos
Director
Office of Hearings and Legislation

PTF/AC/cw