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You Can Write Off Reasonable Lawyer's Fees, But How About \$1,335 An Hour?

Although many people need a lawyer, few like paying legal fees. Hourly fees may seem especially painful, but much legal work is still done that way. Case in point? The City of Ferguson, Missouri is paying \$1,335 an hour to its lawyer, Dan K. Webb. That sounds high, but it's a delicate job: helping negotiate—and possibly litigate—reforms pressed by the Justice Department in the aftermath of Michael Brown's shooting death.

Up until now, Missouri Lawyers Weekly says the highest billing rate in Missouri was \$700 an hour. But Mr. Webb is a former federal prosecutor with a string of famous cases. The City won't need to worry about tax deductions since it is tax exempt. But suppose that you hired a \$1,335 an hour lawyer. Can you write it off your taxes?



It depends, but the hourly rate alone is probably not a problem. Personal legal fees are non-deductible, while legal fees that help your business or investments are deductible. But unless you are running a business, legal fees for many individuals up to 2% of adjusted gross income aren't deductible. What's more, your write-off is phased out, and you get no deduction when computing AMT, a separate 28% tax. It can be surprisingly confusing.

At least a high hourly rate is probably not a problem. Expenses must be [ordinary, necessary and reasonable](#), but those standards aren't too tough. A more delicate question is whether something is business or not. If it is, even criminal charges don't necessarily prevent tax deductions. Take [John Edwards \\$2M in legal fees](#). The charges in his criminal trial related to his conduct in his chosen trade or business: politics.

If the charges don't relate to your business or profession, it's tougher to claim deductions based on preserving your reputation. Consider [Winona Ryder's](#) shoplifting, [Robert Blake's](#) murder charges, supermodel [Naomi Campbell's](#) phone-throwing, and [Lindsay Lohan's](#) DUIs, probation violations, and alleged theft. One can argue that their image required paying high-priced lawyers.

Recall too that [Martha Stewart](#) paid huge legal fees on an obstruction of justice charge. Still, perhaps the biggest legal fees were paid by Michael Jackson leading up to being acquitted on child molestation charges. His legal expenses were as high as \$20 million, and it's hard to see how he

could deduct them. Ironically, though, Dr. Conrad Murray—convicted in connection with Jackson’s death—could probably deduct *his* legal fees as a business expense. The legal expenses related to his profession, even if he ended up being called the [Michael Jackson Death Doctor](#).

A lavish business [expense](#) is significantly higher than what is considered reasonable. Say a company pays triple the market rate for something. That amount may be a lavish or extravagant expense. That makes them—or at least the portion deemed lavish by the IRS—not [tax deductible](#). But high-end doesn’t mean unreasonable. The topic comes up most with entertainment expenses. Consider some of the [world’s most extravagant meals](#).

Someone spent \$3.46M for lunch with Warren Buffett. Now *that’s* an expensive meal, even if it was to support [Glide Memorial Church](#) in San Francisco. Some wondered if [Warren Buffett’s \\$3.46M lunch should be deductible](#). Elsewhere, the IRS has argued that lavish spending can *itself* amount to tax evasion. The IRS unsuccessfully made that argument in [Hawkins v. Franchise Tax Board](#). The case involved Electronic Arts founder [Trip Hawkins](#). I’ll bet he wouldn’t blink about \$1,335 an hour.

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