

INTERNAL REVENUE SERVICE

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[REDACTED]

Dear [REDACTED]

Senator [REDACTED] asked us to respond directly to you concerning your letter of July 10, 2000. [REDACTED] reimburses volunteers who drive their own automobiles on behalf of the county's program, using the business standard mileage rate to determine the costs to be reimbursed. You want the Internal Revenue Service to increase the rate to cover recent increases in the price of gasoline.

Tax-Free Reimbursements. To receive reimbursements without including them in income, the volunteers must account to the agency for the cost, time, purpose, and number of miles driven for each trip. This substantiation is required by § 274(d)(4) of the Internal Revenue Code. Cost substantiation may be done in one of two ways:

- To be reimbursed actual costs, the volunteer must substantiate the costs with actual records (or other sufficient evidence).
- To be reimbursed deemed costs, the volunteer must substantiate the mileage, time, and purpose. The agency's computation using the business standard mileage rate is deemed to substantiate the cost.

Reimbursement by Mileage Rate. A governmental agency may use the business standard mileage rate of 32.5 cents a mile to reimburse bona fide volunteers, under § 1.132-5(r)(1) of the Income Tax Regulations. Whether an individual is a bona fide volunteer for this purpose is a question of fact.

Advantages of Using the Business Standard Mileage Rate. Reducing a taxpayer's record-keeping burden is the principal advantage of using the business standard mileage rate. Gasoline prices rise and fall during the year, but taxpayers may continue to use the same rate without having to keep records of actual expenses. Although

rising gasoline prices can be a disadvantage for taxpayers who use the rate, falling prices can work to their advantage. For example, although gasoline prices fell in 1998, for all of 1998 and through March 31, 1999, taxpayers were able to use the rate that reflected the earlier higher prices.

Gasoline Prices. We realize that increased gasoline prices are an economic burden. However, the cost of gasoline is only one component of the business standard mileage rate, which encompasses fixed and operating automobile costs. These costs include depreciation (or lease payments), maintenance and repairs, insurance, and license and registration fees, in addition to gasoline and oil. Less than one-third of the 32.5 cents per mile rate is attributed to the cost of gasoline and oil. Thus, an immediate adjustment in the rate taking into account the recent increase in gasoline prices might not be significant.

Setting the Business Standard Mileage Rate. The rate is a national average amount determined by an annual study performed by an independent contractor that is an expert in the cost analysis of business use of automobiles. The contractor uses recent data from each state in the country indicating the various costs of operating the most popular automobiles of various sizes. The contractor then combines this data to achieve a national composite cents-per-mile rate. It is not feasible to set the rate more frequently than annually.

Reimbursement of Actual Cost. Alternatively, the agency may reimburse volunteers their actual expenses. Reimbursements for expenses incurred by a taxpayer on behalf of another in a non-employment context are not included in the taxpayers's gross income if the reimbursement does not exceed the actual expenses. Thus, the reimbursement to a volunteer of out-of-pocket transportation costs incurred on behalf of an agency is not income to the volunteer.

I hope this is helpful. Please call John T. Sapienza, Jr., Identification Number 50-06383, at (202) 622-4920, if you have any questions.

Sincerely,

Associate Chief Counsel
(Income Tax & Accounting)

By: _____
Robert A. Berkovsky
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