

Employer HST ITC Claims for Employee Mileage Payments – Jan2014

Ontario Employers can claim an HST ITC equal to 13/113 of reasonable mileage reimbursements to employees. Eg if reimbursement payment to employee is say 1,000 km x \$0.54/km = \$540, then employer can claim an HST ITC equal to \$540 x 13/113 = \$62, and the remainder of the payment being \$540 less \$62 = \$478 would be an expense on the income statement.

See page 22 “Allowances” for the ITCs that employers can claim where reasonable mileage reimbursements are paid to employees:

<http://www.pwc.com/ca/en/tax/publications/pwc-tax-guide-car-expenses-benefits-2013-02-11.pdf>

Car or mileage allowance [§174; §6(1)(b) of Income Tax Act] — Generally, a registrant may claim an input tax credit in respect of an allowance paid to an employee or partner if the allowance is reasonable and may be deducted in determining the registrant's income for income tax purposes. However, additional rules apply in the case of a car or mileage allowance. To claim the input tax credit, the registrant must consider, at the time the allowance is paid, that the allowance is a reasonable mileage allowance for the purposes of [paragraph 6\(1\)\(b\)](#) of the *Income Tax Act*, and the registrant must form that opinion on a reasonable basis.

3.2. Employee-Owned Motor Vehicles

3.2.1. GST/HST Treatment

Employers often compensate their employees for the use of an employee's personal motor vehicle by providing them with a car allowance or **mileage** allowance. On occasion, an **employer** may choose to reimburse an employee for gasoline consumed by the employee's own vehicle for business use but an allowance tends to be the preferred compensation method. An **employer's** ability to recover tax (or not recover tax) is dependent on a number of factors. Each of these should be considered by an organization along with the other non-GST/HST related implications to determine the most appropriate and cost effective way to compensate its employees for automobile use.

While outside the scope of this paper, it is important to note that these rules do not apply to an **employer** owned vehicle. However, there are many GST/HST implications for an organization to consider when supplying company owned motor vehicles to their employees, including the capital cost thresholds (\$30,000 for the purchase of a vehicle or \$800 per month for the lease of the vehicle) and taxable benefit implications related to standby charge and operating costs.

Where the **employer** decides to provide an allowance for the use of a motor vehicle, the **employer** is only entitled to claim an input tax credit or receive a rebate in respect of the allowance when the allowance is determined to be reasonable. Specifically, subparagraphs [6\(1\)\(b\)\(x\)](#) and (xi) of the ITA deem an allowance paid to an employee for using a motor vehicle in the course of the **employer's** activities to be unreasonable unless the following applies:

- the allowance is based solely on the number of kilometres driven;
- the rate per kilometre is reasonable; and
- the employee did not receive both an allowance and a reimbursement related to the same use of the motor vehicle, other than a reimbursement for supplemental business insurance, toll or ferry charges, not already included in the allowance.

Therefore, a flat monthly motor vehicle allowance paid to an employee would usually be deemed unreasonable unless reconciliation to actual kilometres is done each month and a payment is made to adjust actual. This was established in the case of *Tri-Bec Inc. c. R.* [2003] G.S.T.C. 75 (T.C.C. [Informal Procedure]), which is discussed in a subsequent section of the paper. As mentioned above, subparagraph 6(1)(b)(x) in the ITA explicitly requires that the allowance be based on distance driven and accordingly, with the reconciliation to actual kilometres driven, this requirement is met.

In the past, the CRA had considered the total combined allowance of a monthly flat rate allowance and a per kilometre rate allowance received by employees on the same motor vehicle to be unreasonable because it was not based solely on the number of kilometres driven for which the motor vehicle is used.²⁵ However, the CRA, while continuing to consider the flat rate portion of any motor vehicle allowance to be unreasonable (essentially salary), they have relaxed their view on the per kilometre portion of the allowance thereby allowing an imputed input tax credit recovery on that portion.

Additional limitations apply to **mileage** allowances. For income tax purposes, paragraph 18(1)(r) of the ITA limits the deduction an **employer** may make for a **mileage** allowance paid to an employee. For 2011, the maximum deduction allowed is equal to 52 cents per kilometre for the first 5,000 kilometres driven and 45 cents per kilometre thereafter.²⁶ In the Northwest Territories, Yukon and Nunavut, an additional 4 cents per kilometre is allowed for travel.²⁷ As a general rule, the CRA considers a **mileage** allowance to be reasonable if it is based on these maximum prescribed rates although other per-kilometre allowances (higher or lower) may also be reasonable depending on the facts of each situation.²⁸