

From the desk of
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Alternative Business Mileage Methods

The IRS has released the 2021 business mileage standard rates, which now is 56 cents a mile, a decrease of 1.5 cents from the previous year.

The new business mileage rate is effective as of January 1, 2021.

The IRS calculates the mileage rate based upon statistical analysis of driving trend data from the prior year.

With the pandemic, driving is down, therefore the IRS has decreased the mileage rate based upon the following criteria:

- Significantly lower fuel prices, which according to IRS data is 17 percent below 2019 prices;
- Slowed depreciation rates caused in part by vehicle inventory shortages associated with the COVID-19 pandemic production stoppages that has resulted in increased residual vehicle values for used cars;
- Rising insurance premiums that despite reduced travel and accident rates nationwide are now 29 percent higher than they were a decade ago

How Should This Rate be Used

First as a flat rate the IRS business mileage standard does not account for driving costs that fluctuate based on geography and time of year.

That works for low-mileage drivers who travel fewer than 5,000 business miles per year.

Businesses using the rate to reimburse mid and high-mileage workers are more likely to give reimbursements that do not reflect actual driving costs.

This has become an issue over the last several years with a number of high-dollar lawsuits focused on how employers should reimburse their workers' vehicle expenses.

Many courts reviewing this issue have concluded that the IRS rate is not required but instead employers must meet a reasonable approximation of the drivers' expenses under the Fair Labor Standards Act ("FLSA"), as well as under more stringent state reimbursement laws. In other words, the courts have found the IRS calculations not commensurate with reality which of course is no surprise to anyone.

The Department of Labor (DOL) further underscored this point in an August 31 opinion letter where while the DOL does not endorse any specific method, it states that employers are permitted to reimburse employees who use their personal vehicle for work at a "reasonable approximation of actual expenses incurred" in compliance with the FLSA's minimum wage requirements.

This means that to meet their obligations under federal wage and hour laws, employers do not need to reimburse employees at the IRS standard mileage rate but in fact the IRS standard mileage rate may not always offer a reasonable approximation of expenses.

By treating all employees' expenses as the same regardless of location or individual situations, reimbursement using the IRS rate creates a disparity by over or under reimbursing employees for their costs.

This position places any taxpayer at odds with the IRS if they choose to use an alternative methodology in that the IRS will apply their standard causing any taxpayer questioned under audit to incur court costs should they decide to contest the IRS, and which may very well be a less than successful position once in court.

Alternative Reimbursement Approaches

Based upon recent legal opinions, and the economic turmoil of the past year have highlighted the corporate liability that can often be associated with flat reimbursement may larger businesses that have regularly relied on the IRS business mileage standard for reimbursement are now re-evaluating their approach for 2021.

One of the primary alternatives to the IRS business mileage standard rate is a more personalized approach such as the fixed and variable rate (FAVR) method.

FAVR factors in fixed costs such as insurance premiums, registration and license fees, depreciation, and taxes; as well as variable costs like fuel, maintenance, tires, and oil, which all change based on mileage.

The FAVR system was designed to more accurately, and fairly reimburse employees for the exact cost of driving for work, and is paid tax-free under IRS Revenue Procedure 2019-46.

Regardless of which reimbursement a company chooses to utilize it is vital to understand these different approaches including the legal and financial considerations tied to both.

We here at Muffoletto & Company believe that the more informed you are in regards to the rules and regulations that affect you the more we can be of service.

Should you have questions relating to any tax or financial matters call at

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