

# Welcome to TaxMama's® Place - Home of the



**Today's Topic:**

**September 2019  
Tax Roundtable**

- You can find today's handout in the Board after the session

<http://irsexams.com/board/index.php?/topic/956-taxmamas-tax-roundtables/>

- And at the TaxMama site  
<http://taxmama.com/tax-quijs/taxmamas-tax-roundtables-2018/>

## Auto Expense Reimbursement

- LLC w/C corp election. Their business is web sales. There are 2 owners and several employees.
- From 2019, their CPA suggested to keep tracking mileages and auto expenses.
- The owners want to get their auto gas expense reimbursement. Their gas expense is \$1.3K so far this year.
- They use their personal cars for business. They pay gas as personal expense.
- They claim only gas expense \$ as business expense. There is no business mileage tracking information.

## **[Questions]**

- **1.** As long as the owners write up their auto expense reimbursement company policy, can the owners take the actual gas expense reimbursement regardless business mileage?
- **2.** My understanding is that the reimbursement from Corp will be recorded as Corp expense. So there is no need to report the reimbursed amount as other income at the owner's individual return. Is my understanding correct?
- **3.** Does this company policy need to be applied to other employees as fringe benefits?

- The corporation can set up an accountable plan.
- They must include the information in the minutes and in an employee policy manual.  
They can define whether to reimburse actual expenses or mileage.
- Either way – the business mileage **MUST** be tracked and documented for those expense reports.
- The mileage **MUST BE** business-related.
- Whatever they define, the employees must submit expense reports, with records, to have the company reimburse them.
- **ALL** employees who use their vehicles for the company's business must be eligible for the same reimbursements.
  
- If they do all that, the company takes the deduction for the reimbursements and the employees report – **NOTHING**.

### Home Office Expense Reimbursement

- There is a written agreement of the expense reimbursement between the owners and S-corp (2 owners)
- The agreement says that the corp will reimburse the owners for the following expenses based on the proportion of the home office usage;
  - - Mortgage Interest
  - - Property Tax
  - - Home Insurance
  - - Repair/Maintenance
  - - Utilities
  - - HOA Fees
  - - Other Expenses
  - - Depreciation (cost of home/39 years)

## **[Questions]**

- In this case, the reimbursed amount is reported as S corp expense.
- It will pass thru to schedule K-1. So the reimbursed amount does not need to be reported in Schedule E as rental income. Is my understanding correct?
- It looks to me that the above expenses are basically triple net, which means it is going to become the owners rental income?
- Again, the word of reimbursement tricks me. Because of the agreed reimbursement, the owner does not need to report the amount as income?

Please go back to our class on Office in Home.

Lecture 5 - <http://irsexams.com/board/index.php?showtopic=497>

- There must be, in the minutes, a requirement for these employees to use their home office for the corporation's benefit. Essentially, they must NOT have an area in the business' office to use.
- If there is such an area in the company offices, why do they need an office in home? Explain, in writing, in the minutes (and employee policy manual).
- They must have a formal rental contract for a SPECIFIED amount of monthly rent – NOT (paying the mortgage, property tax, insurance, etc.)
  - The company does NOT get depreciation.
  - A NNN contract means the company will reimburse them for all expenses.
- They must submit an expense report to get paid separately from the monthly rental payment.
- They WILL report the rental income on Schedule E.
  - They will deduct their mortgage interest and depreciation and nothing else.
  - With a NNN contract, this rental income will not qualify for QBI



## Regarding reasonable compensation

- What do you think about programs like RCreports.com?
- Or is just asking all the correct cost, market, and income questions and documenting them sufficient?
- I attended a webinar that scared me. It told of the \$2500 auditors specifically targeting S Corp compensation and the \$5K fine per return for Preparers if found out of compliance. I personally thought a 75/25 benchmark was acceptable, which I have learned it is not.
- If you are “it” in an S Corp, chances are that all of your net would need to be salary, so what’s the point of them having an S Corp?
- I will add that I have been doing tax season for 9 years and cannot be the only preparer out there who is surprised by this. I’m scared because we cannot possibly know everything. What about new preparers trying to make it solo? What we don’t know could ruin us.

- RCreports.com – highly reliable. The IRS also uses them for reference.
- They cite some cases in their 100+ slide webinar – all true.

You ask – “If you are “it” in an S Corp, chances are that all of your net would need to be salary, so what’s the point of them having an S Corp?”

### ***TaxMama Responds***

If you noticed those cases, often, they showed about 50% of the profits as the determined salary (the case with about \$200K income).

Yes, you **ARE** going to have to use your judgment.

There is no rule of thumb.

**BUT**, you will attract an audit if the corporation (S or C) shows very low officer compensation, compared to total profits.

You will **NOT** attract an audit if the compensation shown is at least 50% of profits.

They referenced two code sections:

- IRC 7436 <https://www.law.cornell.edu/uscode/text/26/7436>  
this simply gives them the right to bring this to Tax Court – and how
- IRC 6694(b) <https://www.law.cornell.edu/uscode/text/26/6694>
  - THIS is where the penalties are

**(b) UNDERSTATEMENT DUE TO WILLFUL OR RECKLESS CONDUCT**

**(1) IN GENERAL** Any tax return preparer who prepares any return or claim for refund with respect to which any part of an understatement of liability is due to a conduct described in paragraph (2) shall pay a penalty with respect to each such return or claim in an amount equal to the greater of—

(A) \$5,000, or

(B) 75 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or

claim.

**(2) WILLFUL OR RECKLESS CONDUCT** Conduct described in this paragraph is conduct by the tax return preparer which is—

(A) a willful attempt in any manner to understate the liability for tax on the return or claim, or

(B) a reckless or intentional disregard of rules or regulations.

Accurately tracking mileage can be a pain for some clients. I tell most of them about the MileIQ phone app. It's not perfect and you do need to go into the app on the computer at times to make corrections.

My questions are;

How important is it to track non-business commuting and non-business other miles if you are accurately tracking business miles?

Do you have any experience or knowledge of miles being disallowed if the non-business miles are not tracked?

The reason I ask this is, the non-profit I work with is switching to ProSeries. I have download 2018 ProSeries Basic to get acquainted with using it. I noticed for Sch C, auto information it's highlights the boxes in red for required information. It does not highlight the commuting mileage which makes me think it's not a required item.

- While it's not critical to track **where** they drive for the non-business miles, it is essential to track the total miles driven.
- In Chapter 8 of Small Business Taxes Made Easy, I teach you how to reconstruct the total mileage and the business miles.
- You must have the total miles for the year to be able to
  - a. Determine what percent of the total driving was for business
  - b. The commuting miles are important – because they are not deductible. So if they do commute, that needs to be deducted from the total miles.
  - c. Prove that there were enough personal miles used on that vehicle to justify the high number of business miles claimed.
- Generally, IRC 274 specifically requires documentation in order to deduct transportation expenses (among others)  
<https://www.law.cornell.edu/uscode/text/26/274>

I have a question if you have time. The deduction for unreimbursed business expenses have been eliminated-- but I have a (foreign) client on an unaccountable plan.

He is reimbursed for his hotel and travel expenses and they are counted as taxable salary.

Based on my reading it seems I should be able to deduct per diems given that it is taxable income. (Being foreign, he does not receive a W-2. but the amounts are disclosed.)

Did you really mean, an UNaccountable plan?

As of 1/1/2018 you cannot deduct this ANYWHERE.

If, instead, he can go on an accountable plan and submit his expense reports, this will not be taxable income to him.

See if you can explain to the employer that if they have an accountable plan, and the employee submits expense reports and receipts, this is absolutely NOT to be added to income.

That is the point of the accountable plan.

<https://taxmap.irs.gov/taxmap/pub17/p17-103.htm#TXMP2a748224>

Scroll down to the second Trump webinar for tips on how to persuade an employer to provide reimbursements - <http://irsexams.com/board/index.php?/topic/1025-the-2018-trump-tax-webinar/>

Though, in this case, there ARE reimbursements – just should not be added to wages.

***QUESTIONS?***