

Are TRIP Mileage Reimbursement Payments Income?



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MEMO	
TO:	MEMO FOR RECORD
CC:	
FROM:	Richard Smith, Director
DATE:	November 9, 2005
SUBJECT:	IRS MILEAGE REIMBURSEMENT RULES
REF:	
ATCHMTS:	



The *TRIP* Program, in Riverside County California, has operated its *Volunteer Friends* type of Supplemental Transportation Program since 1993. There are many ways to recruit, recognize and support volunteer activities. At the outset a core decision of the *TRIP* Program, however, was the payment of mileage reimbursements to volunteer driver-escorts, who assisted people without other reliable means of transportation for non-emergency medical and quality of life purposes.

One of the first things that I did when I came to the Partnership was to investigate the operational integrity and legality of existing programs, including *TRIP*. And one of the first concerns that I had at that time was how the IRS would view the payment of mileage reimbursement incentives to volunteers. I contacted the IRS on several occasions, explained the program's operation, and asked for opinions about the "correctness" and non-taxable qualification of our procedures under Internal Revenue Service rules. I asked several times knowing that it is possible to get different answers to the same question from different IRS agents. In all cases, I received the same answer: that the payment of mileage reimbursements to volunteers, by our non-profit, was basically the same as a for-profit business paying mileage reimbursements to employees for using their own vehicles to conduct the activities of the business. Having received several agent opinions that agreed, I was secure in believing that we were operating an "accountable", and therefore IRS qualified, mileage reimbursement program.

As many organizations are moving forward to implement transportation assistance programs similar to *TRIP*, all across the country, questions are again arising about the implications of the payment of mileage reimbursements, both for the organizations paying the reimbursements and for the volunteers receiving the reimbursements. I have recounted our experiences with this issue from the mid-90s many times to help reassure those with program development questions similar to those that I had in 1995. Still, questions have persisted so I concluded to write to *The Tax Exempt and Government Entities Division* of the Internal Revenue Service to once again check on our understanding of IRS rules as they apply to the payment of mileage reimbursements to volunteers.

The Tax Exempt and Government Entities Division (TE/GE) was established in 1999 as part of the Internal Revenue Service's modernization effort. The Division was designed to serve the needs of Employee Plans, Exempt Organizations, and Government Entities - from small local community organizations and municipalities to major universities, huge pension funds, state governments, Indian tribal governments and participants in complex tax exempt bond

transactions. The mission of the TE/GE Division is to provide education to help customers understand tax responsibilities, rulings to promote "up-front" compliance, and examination to identify and address non-compliance.

Following is the letter that we sent to the TE/GE Division on September 26, 2005:

We are an exempt organization that assists older adults who are chronically ill or frail or suffering from dementia or other debilitating conditions that limit their mobility and restrict or prohibit their use of public transportation options. We assist by matching them with volunteer escort drivers, who use their own private vehicles to drive our clients to medical appointments and assist them to meet other essential living needs. This service helps to prevent the institutionalization of our clients, enabling them to continue to live semi-independently in their own homes in our communities. The only incentive that we provide for our volunteers is the payment of mileage reimbursements, currently at a rate of 32 cents per mile.

In 1995 and 1996 we received telephone representations from IRS employees, on a number of recheck calls, that for tax purposes the reimbursements we paid our non-employee volunteers would be considered to be the same as mileage reimbursements that would be authorized for payment to for-profit business employees who used personal vehicles for business purposes and who were not compensated in other ways, such as through a car allowance. Our volunteers are required to report their travel in detail, including date of travel, purpose of travel, origination and destination details, odometer mileage and the elapsed time of the volunteer activity. It was our understanding that these measures of control and reporting would qualify our mileage reimbursement payments under the terms authorized for a "qualified plan".

Questions continue to arise regarding our understanding of the rules that govern the mileage reimbursement practice we employ, so we are requesting written clarification. It should be added that we do not pay mileage reimbursement to volunteers for their use of their private vehicles for travel from their homes to the places where they provide volunteer service. We have advised them that the mileage they incur in travel on their own time and to and from the places that they volunteer may be tax deductible (as an unreimbursed expense) at the legislatively established rate of 14 cents per mile.

Is our understanding and interpretation of this matter correct? Thank you in advance for your assistance.

On November 9th, an analyst from the TE/GE Division contacted us to discuss the questions raised by our letter. What he told us was that our program has correctly interpreted IRS rules, as they apply to the payment of mileage reimbursements, and that our documentation procedures do seem adequate to qualify TRIP as an "accountable plan".

With regard to the qualification of a mileage reimbursement to be considered as non-taxable, we were directed to IRS Publication 463 (*Travel, Entertainment, Gift, and Car Expenses*), page 28, which states (in part): "If you are an employer and you reimburse employee business expenses, how you treat this reimbursement on your employee's W-2 depends in part on whether you have an accountable plan. Reimbursements treated as paid under an accountable plan are not reported as pay." Further, "To be an accountable plan, your employer's reimbursement or allowance arrangement must include all three of the following rules. 1. Your expenses must have a business connection. 2. You must adequately account for these expenses within a reasonable period of time. 3. You must return any excess reimbursement within a reasonable time." From the IRS perspective, I was told, "employer" is any entity that organizes tasks for a purpose defined by its mission or business and an "employee" is an individual who does the work of the entity, and that these rules make no applicability distinction between organizations that are for-profit, non-profit, or government agencies.

With regard to the allowable per mile rate of reimbursement, we were directed to IRS Publication 463 (*Travel, Entertainment, Gift, and Car Expenses*), page 29, which states (in part in the section titled: *Per Diem and Car Allowances*): "2. For car expenses: a. The standard mileage rate."

With regard to the deductibility of unreimbursed vehicle expense, when traveling to and from the place where volunteer work will take place, we were directed to IRS Publication 526 (*Charitable Contributions*), page 5, which states (in part): "You can deduct the costs of gas and oil that are directly related to getting to and from the place where you are a volunteer. If you do not want to figure your actual costs, you can deduct 14 cents for each mile." The time a volunteer spends providing volunteer service is not a deductible item.

Summary. It is allowable for an organization, faith based, non-profit, government, or for-profit, to pay mileage reimbursements to volunteers and paid staff if: 1. Individuals are not provided with a company or organization vehicle; 2. Individuals are not paid a car allowance, or otherwise compensated for the use of their private vehicle; 3. The rate of mileage reimbursement does not exceed the published IRS Standard Rate then in effect; and 4. The "employing" organization keeps adequate and timely records sufficient to qualify its payment of mileage reimbursement as an IRS Accountable Plan. Volunteers may also deduct the expense of travel to and from the place where they provide volunteer services on an actual and supported cost basis, or at the rate of 14 cents per mile. Volunteer time is not a deductible item.

NOTE: This information was re-verified by ILP/TRIP with the IRS in 2011. We invite others to contact the TE/GE Division of the IRS to independently corroborate the interpretation of IRS tax rules.

When would the payment of mileage reimbursements require the issuance of a 1099?

So long as an accountable IRS mileage reimbursement plan is implemented and the rate of mileage reimbursement does not exceed the Standard Rate for the period, the payments are mileage reimbursement payments, <u>not income</u> to the recipient, and a 1099 is not required.

If a rate larger than the Standard Rate is paid, the amount over the Standard Rate would be income and the issuance of a 1099 would be required. If payments are not supported by correlated actual mileage reports, the full amount of the payments may be considered as income to the recipient.