

Kanabec County

Tax Research re Mileage Reimbursement of Volunteer Drivers

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Background

Kanabec County provides transportation to needy individuals under Timber Trails Public Transit. The county has 5-10 volunteer drivers, whom they reimburse (pay) at the IRS business standard mileage rate. They were recently informed that they need to issue 1099s to volunteers for mileage reimbursed at more than 14 cents per mile (charitable limit). This is per a Minn. Dept. of Revenue (DOR) website information document on the topic of Volunteer Mileage Reimbursements.

The drivers are reimbursed/paid between \$25,000 and \$33,000 annually. But the drivers do not want to pay income tax on this. These volunteers are critical to the county and save about \$250,000 annually if the county had to pay for their time, so the county does not want to lose them.

The county is proposing setting up a Timber Trails Owner/Operator Division and contracting with individuals to drive their own vehicles to provide rides. They would offer these jobs at a fixed rate based on loaded or non-loaded miles, similar to the transportation industry. The county would issue 1099-MISC to the drivers. The drivers would need to report the income on Schedule C of their individual income tax returns, but could deduct expenses.

Questions

1. Is the Mn DOR analysis correct, such that if the county reimburses the drivers for any amount in excess of the IRS charitable mileage rate, a Form 1099 is required and the drivers will have taxable income for amounts in excess of the charitable mileage rate?
2. What alternatives would allow the drivers to deduct mileage at the full business mileage rate, currently 53.5 cents per mile?

Analysis – Question 1

Volunteers who use their own vehicle must recognize gross income for mileage reimbursements that exceed the \$.14/mile charitable mileage rate. A Tax Court case in 1981 held that taxpayers who did not receive a salary or fee for their driving could not use the business mileage rate, as they were not conducting a trade or business activity [*Ronald E. Gibson, Sr.*, TC Memo 1981-668]. There is further support for limiting the deductible rate to the \$.14 charitable rate based on the wording in the annual IRS Revenue Procedure on standard mileage rates. Regarding the charitable rate, it states that the rate applies “for use of an automobile in rendering gratuitous services to a charitable organization” [Rev. Proc. 2016-79]. In other words, if the driver is working as an unpaid volunteer, the driver is limited to the \$.14 per mile charitable rate.

If the reimbursement from the county is only for the use of the vehicle of the volunteer, then by default the driving services of the worker are gratuitous. Further, the County is a qualified charity under Sec.

170(c)(1) because of its governmental status. As a result, the volunteer drivers fit the definition of a person providing gratuitous services to a charity, and the driver is limited to the \$.14 per mile charitable rate as a tax deduction.

To the extent an individual is paid more than \$600 per year at a rate over \$.14 per mile, the County has an obligation to report the reimbursements on Form 1099 to each volunteer (i.e., the reimbursement is considered not to be under an accountable plan per Rev. Proc. 2010-51, sec. 7 and the regulations at Sec. 274).

Conclusion – Question 1

The Minn. DOR website material is correct. The reimbursement of a volunteer worker, rendering gratuitous services, is only nonreportable if the rate is \$.14 per mile or less. Any greater rate than the standard IRS charitable mileage rate, if totaling \$600 or more to the worker for the year, must be reported on a Form 1099. Thus, if the county reimbursed the driver at the business rate of \$53.5 per mile, the driver would have taxable income on the excess of the reimbursement over the charitable rate deduction.

Analysis – Question 2

In order to allow the drivers to deduct a rate greater than the \$.14 charitable rate, the drivers must no longer be volunteers rendering gratuitous services. Thus, the county must create an arrangement in which the drivers are compensated both for the use of their vehicle and for their services. This could be done as a mileage rate, similar to the manner in which some trucking companies pay drivers, but it would need to be under a contractual agreement that defined the payment as including their driving services, not merely use of their vehicle with volunteer services.

To the extent the drivers are paid for their services, it would require the county to make the separate determination of whether the drivers were independent contractors or employees. There are significant legal, payroll tax and fringe benefit differences to these two categories, and if the county was considering this approach, we would advise that they seek legal counsel and related professional advice as to the proper determination of worker classification.

Conclusion – Question 2

The county would need to pay/reimburse the drivers under an arrangement which defined the payment as including a fee or compensation for their services. This removes the drivers from the category of providing gratuitous services to the county in connection with the use of their vehicle, and thus moves the drivers from the \$.14 per mile charitable deduction rate to the \$.535 per mile business deduction rate. This contractual change, however, has potentially significant implications in terms of the employee vs. independent contractor status of the drivers. If properly structured as independent contractors, the drivers would report on Schedule C and have net taxable income on the excess of the reimbursement over the standard mileage rate and any other out-of-pocket expenses.