Our town reimburses employees who use their personal vehicle for town business at a rate of 32 cents per mile. The selectboard would like to raise the rate and wondered if they have the authority to do so.

The selectboard is responsible for establishing a policy of reimbursing municipal employees, or not, when employees use a personal vehicle for municipal business. The selectboard may also determine when and how the reimbursement rate would be adjusted according to variable costs, such as the cost of gasoline. Because reimbursement can be a substantial cost to the municipality, the cost should be incorporated into the municipal budget that is approved by the voters at an annual meeting.

As a guideline, the Internal Revenue Service (IRS) sets a business mileage reimbursement rate at the end of every year for the subsequent calendar year. Employers commonly use the rate set by the IRS. This rate is based on fixed and variable costs, such as depreciation or lease payments, maintenance and repairs, gasoline, oil, insurance, and license and registration fees and other fees associated with operating a motor vehicle. Note, however, that a municipality can set a higher or lower rate per mile.

Any reimbursement for business travel to employees must be done in accordance with IRS regulations. When the business expenses are reimbursed under what the IRS calls an Accountable Plan, the employee must provide the proper documentation for the reimbursement to be tax-exempt. The IRS definition of proper documentation is "the substantiation of the time, place, amount and business purpose of the expense." When a municipality reimburses an employee at the IRS mileage rate (or lower rate) under an Accountable Plan, the reimbursement is exempt from income and payroll taxes.

If the employee is reimbursed without providing the proper IRS-required documentation, then the amount is reimbursed under what the IRS calls a Nonaccountable Plan and the entire amount is taxable income to the employee and subject to all employee and employer payroll taxes. If a municipality sets a higher rate, the amount above what the IRS sets is not exempt from payroll taxes. The new rate for 2008 is set at 50.5 cents per mile. For example: Using the rate for 2008, a municipality reimburses an employee 75 cents per mile (IRS rate is 50.5 and the excess is 24.5 cents) for business travel under an Accountable Plan. The employee travels 100 miles, incurs a travel expense of $75 and provides the proper documentation substantiating the expense. The non-taxable amount for traveling the 100 miles is 100 times .505, or $50.50. The taxable amount for traveling the 100 miles is 100 times .245, or $24.50. The reimbursement amount of $50.50 is non-taxable; however, the reimbursement amount of $24.50 is taxable (subject to all employment taxes – income tax, employee and employer Medicare tax, and employee and employer Social Security) since it is an excess amount over the IRS mileage rate. If the employee did not provide the IRS-required substantiation for the expense, the entire reimbursed amount of $75 is taxable income to the employee and subject to all employee and employer payroll taxes.

You can obtain more information about the business mileage reimbursement rate from the IRS Web site, http://www.irs.gov/newsroom/article/0,,id=176030,00.html.

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