

THE ORANGE COUNTY

REGISTRER

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| **MONDAY**, June 12, 2006 |

Auto allowances regulated – somewhat

Q. As a sales representative and an employee of this company, I drive to my client's locations. The company I work for reimburses far less than what the IRS does at 48.5 cents per mile. When I initially started with the company, I was paid an auto allowance and then they changed it to per mile. Can the company determine any amount for reimbursement or are there laws?

A. "First, to resolve issues involving mileage reimbursement, you should first investigate by contacting your payroll department," says Keith G. Bremer, partner at the Newport Beach office of law firm Bremer Whyte Brown & O'Meara.

"This may allow you to seek clarification from your employer as to your concerns and possibly correct any misinformation you may have.

"The answer to your question depends on your status. If you

are an 'independent contractor,' your employer is not generally required to reimburse you for mileage. If you are deemed an 'employee,' California law requires mileage reimbursement for official and approved travel.

"California Labor Code Section 2802 controls the reimbursement of approved expenses incurred by employees. California's Division of Labor Standards Enforcement has held that reimbursement at the Internal Revenue Service's mileage rate satisfied the mileage reimbursement requirement. However, California employers may either pay a 'reasonable' mileage fee, which is inclusive of all reasonable operating costs incurred by the employee using a personal vehicle for business purposes, or the actual expenses incurred.

"Your question suggests that your employer has chosen to re-

imburse you for reasonable operating costs, as opposed to actual expenses. As of Jan. 1, the IRS's standard mileage reimbursement rates for use of a personal car are 44.5 cents per business mile driven. A determination of whether your employer is providing an appropriate mileage reimbursement rate per business mile driven is not a 'bright-line' test.

"If you feel that the amount of reimbursement is not reasonable or compliant with California law, you should contact an attorney."

IF YOU HAVE QUESTIONS:

Write: Work Q&A

The Orange County Register

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Letters cannot be individually answered.