

# MONTHLY NEWSLETTER

## Deductibility of Employment Expenses



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*Our goal is to provide updates on topical tax issues. Information contained in the newsletters is not meant to be a comprehensive summary of the issues raised. Rather, we wish to bring what we believe to be important issues to the attention of our valued clients. We would be pleased to discuss any questions that you, the reader, might have in greater detail.*

### OVERVIEW AND DOCUMENTATION

If you are required by your employer to incur expenses in order to earn employment income as part of your employment contract, you may be eligible to claim some, or all, of the expenses as a deduction. These deductions are subject to certain conditions and restrictions and are reported on form T777 of the T1 – *Personal Tax Return*. Employees who earn commission income are eligible to claim a wider range of expenses. Where employees are reimbursed by their employer for expenses incurred, no deduction is available.

Common deductible employment expenses include supplies, meals and entertainment, work-space-in-home, and automobile expenses. In order to claim expenses related to your employment income, your employer must complete Form T2200, *Declaration of Conditions of Employment* for each calendar year, which outlines the employment expenses you are required to incur as part of your employment duties.

Records must be retained by the employee in order to substantiate employment expense claims. Invoices, receipts, and descriptions of expenses incurred should be documented and retained. In the event of a request for support for the deductions from the Canada Revenue Agency (“CRA”), these documents would substantiate the claim. This is a common area of review by the CRA.

### AUTOMOBILE EXPENSES

Automobile expenses, one of the most common employment expenses, require a record of the total kilometres the employee drove for the year and the kilometres the employee drove for employment purposes in the year. These metrics are used to prorate the annual automobile expenses incurred, such as insurance, repairs and maintenance, gasoline, etc. The total kilometres driven for employment purposes must be documented in a log for each trip. It should be noted that an employee’s daily commute to and from their employer’s operating location is not considered an eligible employment expenses and would be considered personal kilometres.

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A 2013 Tax Court of Canada case, *Patrick J. Barry v. Her Majesty the Queen* (2013 TCC 221) addressed issues related to claiming automobile expenses. The outcome of the case was that the taxpayer was unable to deduct his automobile costs “used for employment” as his employment contract did not explicitly or implicitly require him to pay the expenses.

The CRA lists the following criteria, all of which are required to be met in order to deduct motor vehicle expenses;

- 1.) The employee was normally required to work away from the employer’s place of business.
- 2.) Under the employee’s contract of employment, he or she had to pay his or her own motor vehicle expenses.
- 3.) The employee did not receive a non-taxable allowance for motor vehicle expenses and;
- 4.) The employee had a signed T2200 from the employer

The contentious issue in *Patrick J. Barry* was whether an implicit requirement to incur personal automobile expenses was sufficient to meet CRA’s requirements, or whether the requirement must be specifically outlined in the contract of employment. Based on previous jurisprudence, the words “under the contract of employment” do not necessitate the existence of a written employment contract as long as the fact of the requirement is documented. Based on this information, employment contracts do not need an explicit clause regarding motor vehicle expenses to meet the criteria. However, as we learned from *Patrick J. Barry*, the determination of an implicit requirement to pay for your own vehicle expenses is subjective and at CRA’s discretion. As a “best practice” employers and employees should strive to include this clause in employment contracts.

### WORK-SPACE-IN-HOME

Home office expenses are common expenses for employees who conduct work from home. In order to deduct these expenses, employees must meet one of the following two conditions;

- The work space is where the employee mainly does his or her work (more than 50%)
- The use of the work space is used to earn employment income, and is used on a regular and continuous basis for meeting clients or customers.

For telecommuters or other employees that conduct employment activities from home and meet either of the aforementioned criteria, a deduction may be available for the workspace. This calculation is generally determined by prorating the costs of the home by the square footage of the work space in relation to the total furnished area of the domicile.

Employees can deduct expenses such as utilities and repairs and maintenance, however they are restricted from deducting mortgage interest, property taxes, home insurance, or capital cost allowance. Employees who earn commission income cannot deduct mortgage interest or capital cost allowance related to their home office, however property taxes and home insurance are

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acceptable deductions. Home office expenses can be deducted only against the income for which the expenses relate.

ADDITIONAL INFORMATION

Certain types of employees may be eligible for a broader range of employment expense deductions, including transportation employees, employees working in forestry, and employed tradespersons. For more information, please refer to CRA's Guide, Employment Expense T4044(E), or contact our office for assistance.