

GST/HST Policy Statement

Please note that the following Policy Statement, although correct at the time of issue, may not have been updated to reflect any subsequent legislative changes.

P-113R	Whether an individual can claim an employee and partner GST/HST rebate for automobile expenses where the individual has received an allowance
Date of Issue	July 6, 2004. This policy statement replaces P-113, dated February 17, 1994.
Subject	Whether an individual can claim an employee and partner GST/HST rebate for automobile expenses where the individual has received an allowance
Legislative Reference(s)	Sections 174 and 253 of the <i>Excise Tax Act</i> (ETA) and paragraphs 6(1)b) and 8(1)(h.1) of the <i>Income Tax Act</i> (ITA)
National Coding System File Number(s)	11650-6, 11650-8
Effective Date	January 1, 1991 for GST and April 1, 1997 for HST

Issues and Decisions:

First Issue

Whether an individual can claim an employee and partner GST/HST rebate under section 253 of the ETA with respect to the GST/HST paid on automobile expenses where that individual has received an allowance from a registrant for the use of the individual's motor vehicle (in relation to activities engaged in by the registrant). The allowance was considered, at the time it was paid by the registrant, to be a "reasonable" (i.e., non-taxable) allowance for the purposes of subparagraph 6(1)(b)(v), (vi) or (vii.1) of the ITA.

Decision

If an employee or partner incurs automobile expenses which exceed the amount of the "reasonable" (i.e. non-taxable) allowance paid to him or her by a registrant for the use of the individual's motor vehicle (in relation to activities engaged in by the registrant), the employee or partner cannot claim an employee and partner GST/HST rebate to recover the tax incurred for the related expenses.

Second Issue

Whether or not an individual can claim an employee and partner GST/HST rebate under section 253 of the ETA with respect to the GST/HST paid on automobile expenses where the individual receives both a flat rate amount and a cents per kilometre rate for the same use of the individual's motor vehicle (in relation to activities engaged in by the registrant).

Decision

Effective January 1, 2001¹, the total combined allowances are not considered to be "reasonable", by virtue of subparagraph 6(1)(b)(x) of the ITA. Where the registrant certifies that it considered the motor vehicle allowances unreasonable at the time they were paid, the individual is entitled to claim the employee and partner GST/HST Rebate to recover the tax incurred for the related expenses.

Discussion

Subparagraphs 6(1)(b)(x) and (xi) of the ITA consider an allowance for using a motor vehicle to be reasonable only if the following conditions apply:

- The allowance is based only on the number of kilometres driven in a year;
- The rate per kilometre is reasonable; and
- The employee is not reimbursed for expenses related to the same use, other than a reimbursement for supplemental business insurance or toll and ferry charges not already included in the allowance.

Where an allowance that is paid to an employee or partner for the use of the individual's private vehicle is composed of both a monthly flat rate amount and a cents per kilometre rate for the same use, the total combined allowance is not considered "reasonable" by virtue of subparagraph 6(1)(b)(x) of the ITA, because it is not based solely on the number of kilometres for which the vehicle is used. Accordingly, the total combined allowance must be included in the employee's income for income tax purposes.

Where an employee or partner receives both a monthly flat rate amount and a "cents per kilometre" rate allowance from the registrant for the same use of that individual's motor vehicle, the employee or partner should be entitled to claim the employee and partner GST/HST rebate for the GST/HST paid on the related automobile expenses. The registrant is required to certify that it considered the motor vehicle allowances to be unreasonable at the time that they were paid.

Examples

¹ The effective date of this portion of the policy coincides with changes in policy for income tax purposes in relation to motor vehicle allowances.

EXAMPLE NO. 1

Facts

In January 2002, a registrant employer provides an employee with a 35 cent per kilometre allowance for the use of the employee's motor vehicle in relation to activities engaged in by the employer. The employee only uses the motor vehicle in Canada.

The allowance was considered by the employer, at the time it was paid, to be a "reasonable" allowance for purposes of subparagraph 6(1)(b)(vii.1) of the ITA since it did not exceed the maximum prescribed rate(s) for income tax purposes. As well, an amount in respect of the allowance is deductible in computing the employer's income for the year for income tax purposes. For GST/HST purposes, the employer claims an input tax credit in respect of the "reasonable" allowance paid to the employee.

In December 2002, the employee discovers that the total motor vehicle expenses for the year exceed the total amount of the allowances received from the employer for the year. Administratively, the employee is permitted to deduct these expenses against the employee's employment income for income tax purposes on the condition that the allowances are included in the employee's income.

The following is a summary of the motor vehicle allowances included in the employee's income in 2002, and the motor vehicle expenses deducted by the employee for the 2002 taxation year:

Motor vehicle allowances included in the employee's income

10,000 business kms x 35¢/km = \$ 3,500

Motor vehicle expenses:

Gasoline	\$ 1,400*	
Insurance	2,000	
Capital cost allowance (CCA)	7,600*	
Repairs	<u>2,000*</u>	
Total		\$ 13,000
Less personal use (50%)		<u>- 6,500</u>
Business use portion of the motor vehicle expenses deducted for income tax purposes		<u>\$ 6,500</u>

Issue

Whether or not the employee would be entitled to claim an employee and partner GST/HST rebate in respect of the GST/HST the employee paid on the vehicle expenses (which were deducted in 2002 against the employee's employment income for income tax purposes) under section 253 of the ETA.

Comments

* includes GST/HST

The employee is not entitled to claim an employee and partner GST/HST rebate to recover the GST/HST paid on motor vehicle expenses deducted for income tax purposes since the employee was in receipt of motor vehicle allowances that were considered to be “reasonable” at the time they were paid.

EXAMPLE NO. 2

Facts

In 2002, a registrant employer pays an employee two allowances for the same use of the employee's personal motor vehicle in relation to the activities engaged in by the employer. The employee only uses the motor vehicle in Canada. The registrant pays the following amounts to the employee:

- An allowance at the rate of \$0.28 per kilometre for “out-of-town travel”; and
- An additional flat rate motor vehicle allowance in the amount of \$200 per month which the registrant did not consider to be a “reasonable” allowance at the time it was paid for the purposes of 6(1)(b)(vii.1) of the ITA.

For income tax purposes, an amount in respect of each motor vehicle allowance is deductible in computing the income of the employer for the 2002 taxation year.

Since the allowance paid to the employee for the use of the employee's private vehicle is composed of both a monthly flat rate and a cents per kilometre rate, the allowance would not be considered “reasonable” by virtue of subparagraph 6(1)(b)(x) of the ITA, because it is not based solely on the number of kilometres for which the vehicle is used. Accordingly, the total combined allowance would be included in the employee’s income for income tax purposes.

The following is a summary of the motor vehicle allowances required to be included in the employee’s income for income tax purposes, and the motor vehicle expenses deducted by the employee for the 2002 taxation year:

Motor vehicle allowances included in the employee’s income

10,000 business km x 28¢/km	<u>\$ 2,800</u>
\$200/mth x 12 months	<u>\$ 2,400</u>

Motor vehicle expenses

Gasoline	\$ 1,600*	
Insurance	2,000	
Capital cost allowance (CCA)	7,600*	
Repairs	<u>2,600*</u>	
Total expenses	\$ 13,800	
Less personal use (50%)	<u>– 6,900</u>	
Business use portion of the motor vehicle expenses deducted for income tax purposes		<u>\$ 6,900</u>

Issue

* includes GST/HST

Whether or not the employee is entitled to the employee and partner GST/HST rebate under section 253 of the ETA in respect of the tax paid on the portion of the business-related motor vehicle expenses deducted in the year for income tax purposes.

Comments

The employee will be entitled to claim the employee and partner GST/HST rebate in respect of the tax paid on the business-related motor vehicle expenses, provided the registrant employer certifies that it considered the motor vehicle allowances in question to be unreasonable at the time the allowances were paid.