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Title 22@ Social Security

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Division 1@ Employment Development Department

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Subdivision 1@ Director of Employment Development

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Division 1@ Unemployment and Disability Compensation

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Part 1@ Unemployment Compensation

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Chapter 4@ CONTRIBUTIONS AND REPORTS

## **929-1 Allowance for Traveling, Automobile, and Other**

Article 2@ "WAGES" THE BASIS OF THE CONTRIBUTION

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Section 929-1@ Allowance for Traveling, Automobile, and Other Business Expenses

### **(a)**

"Wages" does not include the actual amount of traveling, automobile and other required or necessary business expenses incurred by an employee in connection with his employment; provided however, that the employee shall maintain such reasonable records as will enable him to account to his employer for the amount of the expenses actually incurred by him and that the employer shall keep such reasonable records as will show the portions of the total amount which represent respectively expenses and remuneration for services.

### **(b)**

If proper records are maintained, an expense may be allowed either where the employer pays the employee a gross sum out of which the employee pays his expenses, or where the employee expends his own funds and is reimbursed by the employer.

### **(c)**

The accounting between the employee and his employer shall be accomplished for periods not greater than a calendar quarter and not less often than once each quarter so the employer may have knowledge of that portion of the payment which is remuneration for personal services for the purpose of properly preparing the quarterly contribution and earnings returns.

**(d)**

Nothing herein shall preclude a reasonable flat daily, weekly, monthly, or other periodic allowance to cover traveling and similar expenses actually incurred and not in fact remuneration for services performed. Where the employer computes expenses on a fixed flat allowance basis, the employer shall, at all times, be prepared to substantiate the amount claimed to be expense items and to show that no part of it represents additional remuneration for employment. A statement of expenses by the employee shall constitute a rebuttable presumption that the employer has complied with this section.

**(e)**

Allowance for automobile expense may be computed on any one of the following bases: (1) The actual expense incurred, if the records show the actual expenditures for fuel and other automobile expense. (2) A reasonable fixed mileage rate, if the records show the actual miles traveled by the employee in the employer's business. (3) A reasonable flat periodic allowance, if the employer substantiates the reasonableness of the computation at the request of the department.

**(1)**

The actual expense incurred, if the records show the actual expenditures for fuel and other automobile expense.

**(2)**

A reasonable fixed mileage rate, if the records show the actual miles traveled by the employee in the employer's business.

**(3)**

A reasonable flat periodic allowance, if the employer substantiates the reasonableness of the computation at the request of the department.

**(f)**

Payments to an employee made under an agreement providing for reasonable flat daily allowances for travel expense based on specified mileage zones measured from a fixed central point are reasonable flat periodic allowances and required or necessary business expenses under this section, regardless of the actual mileage traveled by the employee, if there is a reasonable inference that payments made for shorter trips will offset payments made for longer trips.

**(g)**

Payments for time spent in travel by an employee who is compensated for time required to reach his job location are not required or necessary business expenses.

**(h)**

An allowance for automobile expense incurred by an employee is not a required or necessary business expense if incurred in the use of his automobile for pleasure, or to go to and from his home and a fixed place of work, except as provided in subdivision (f), or for any other personal purpose.

**(i)**

An allowance for personal expense incurred by an employee which is not directly attributable to employment, such as rent, clothing, dues, or assessments, is not a required or necessary business expense.