

INFO SHEET 1

Summary of Employee Expense Tax Deduction Rules as at January, 2021¹

The following provides a summary of the expenses which may be incurred by IATSE members that may be eligible for a tax deduction.

A comprehensive summary of the employment expenses that are eligible for deduction is set out in detail in the following CRA publications:

- Employment Expenses 2020, T4044(E) Rev. 20, <https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/t4044/employment-expenses.html>;
- IT522R (Archived) Vehicle, Travel and Sales Expenses of Employees, <https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/it522r.html>
- IT-352R2(Archived) Employee's Expenses, Including Work Space in Home Expenses, <https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/it352r2/archived-employees-expenses-including-work-space-home-expenses.html>; and
- Introducing a simplified process for claiming the home office expenses for Canadians working from home due to the COVID-19 pandemic, <https://www.canada.ca/en/revenue-agency/news/2020/12/introducing-a-simplified-process-for-claiming-the-home-office-expenses-for-canadians-working-from-home-due-to-the-covid-19-pandemic.html>

Generally, employees (as distinct from a loan-out corporation or other businesses) are not entitled to deduct expenses, except for expenses specifically listed as eligible expenses under the *Income Tax Act* (the "ITA").

(a) General Eligibility Requirements for Expense Deductions

Under the ITA, employment expenses are eligible for a tax deduction only to the extent that the terms of the employee's employment contract require the employee to incur the expense to carry out their employment duties.

In addition, deductions are limited to the extent that the employee is not reimbursed by the employer for the expense. Where the employer reimburses the employees for a portion of their expenses, the employee is only entitled to claim a deduction for the portion that was not reimbursed.

However, where eligible expenses are reimbursed by the employer but the reimbursement is included as taxable income on the employee's T4, the expenses incurred may still be eligible for deduction.

¹ This summary was prepared in January 1, 2021, and reflected rules and guidance applicable at that time. For future tax years, please consult your tax advisor or the CRA to determine whether updated rules or guidance are applicable.

As the expense must be incurred as a term or condition of the employment contract, it is preferable that the terms, including the expenses that employees are expected to incur, be specified in a written contract. Members should specify expense terms in their deal memos if this not covered in the application collective agreement.

The courts have accepted that deductions for employment expenses can be supported by implied terms of employment that are not explicitly set out in the employment contract where “such payment was to be made by the taxpayer and was, in fact, necessary under the circumstances to fulfill the duties of their employment.” However, a written agreement covering expenses is always preferable.

(b) Travel Expenses

Travel expenses, must be incurred by the employee exclusively for travelling in the course of employment. For example, if the member is required to travel from the set to other locations to carry out their duties, travel related expenses would be deductible if incurred by the member and not reimbursed on a tax free basis.

If members receive a per diem travel allowance, which is included in their T4 (taxable), they may still claim a deduction for the expense.

Amounts paid for business promotion (for example, costs of entertainment of customers or suppliers) and amounts paid for travel from home to the member’s regular place of work are generally not eligible travel expenses for tax deduction purposes.

Eligible travelling expenses may include:

- food, beverage expenses (including food bought in planes etc.) if not reimbursed on a tax free basis:
 - if the member is required to be away for at least 12 hours
 - up to a maximum of the lesser of
 - 50% of the amount paid by the member, or
 - 50% of what is reasonable in the circumstances.

If a per diem allowance is included on a T4, members may still be eligible for a deduction

- lodging expenses if not reimbursed (or paid directly by the employer) on a tax free basis.

(c) Motor Vehicle Expenses

Where an employee receives an allowance that is based solely on a reasonable per-kilometre rate, it is not taxable and thus the expenses incurred are not deductible.

If the rate provided by the employer is unreasonably low, and the employee voluntarily includes the allowance in taxable income, motor vehicle expenses in excess of the allowance can be deducted by the employee.

Practically, IATSE Members should get a T2200 certified by the employer and should document work and personal travel to support the deduction claim in the event of a CRA audit.

Members should complete form T777 and deduct from the expenses any allowances and reimbursements that are not included in income. Members are entitled to the difference between the deduction that they would otherwise be entitled to, and the allowance that is provided under the written contract or collective agreement.

Where the member owns or leases a "motor vehicle" used to carry out their employment duties, vehicle related expenses may be eligible for a deduction. This would apply to members if they are required to have a vehicle to travel from their normal place of work (i.e. the production office) to other locations. **This does not include travel from the member's home to the set or the member's regular place of work.**

The amount that can be deducted is equal to:

- the proportion of the distance used for work
 - calculated as (distance related to work / total distance traveled in the year)
- multiplied by the total vehicle expenses:
 - total operating expenses of the vehicle incurred by the employee in the year, including:
 - fuel
 - maintenance (car washes, oil, grease, servicing charges)
 - repairs (other than accidents repairs)
 - licences
 - insurance
 - eligible leasing costs
 - capital cost allowance , and
 - interest
 - to a maximum of \$300 per each 30 days for a passenger vehicle
- minus the rebates, allowance and reimbursements received from the employer and not included in the employee's income.
- plus the full cost of accident repairs where the accident occurred during the vehicles use in work (no deductions are allowed for accidents during personal use).

(d) Parking

Parking fees may only be deducted if incurred in the course of employment, but do not include the cost of parking at the employer's normal place of business, which would include a production set.

A condition of claiming this expense is that the employer must require the member to use a motor vehicle for which the member is not reimbursed. In other words, the employee must satisfy the conditions to claim allowable motor vehicle expenses, as described above.

(e) Office Rent

Where members are required to rent and pay for office space without reimbursement as part of an employment contract, the costs of the rent and related expenses can be deducted. This category does not include home office expenses, which are discussed below.

(f) Supplies

Eligible expenses for supplies include:

- **Materials that are used directly in the performance of the duties of the employment.** Eligible supplies are generally things used in course of the employment contract and not reused. That is, the deductions are intended to be limited to expenses incurred in connection with a specific project, contract, or employment where the employee incurs the cost to fulfill the conditions of a term of the employment contract.

This may apply, for example, to members who are required rent or supply equipment for a particular production, for supplies such as film, studio make-up or costume supplies, but would not apply to the purchase of equipment or tools, such as a computer.

- **Cell phone use cost.** Specifically, air time expenses that reasonably relate to the earning of employment income, but not the monthly basic service charge or amounts paid to connect or license a cellular telephone;
- **Purchase or lease of a computer or software is not** an eligible employment expense for non-commission employees.
- **Home Office.** Members will be eligible if they are required to work more than 50% of the time from home or use the space exclusively for work on a regular and continuous basis to meet clients, customers or other people.

If eligible, members may claim the cost of utilities, maintenance, cleaning, rent for a workplace in the home apportioned between the employment (i.e., work space) use and the non-employment use of the home on some reasonable basis, such as square metres of floor space used. However, the reasonable basis should also take into consideration the personal use, if any, of the work space.

For the 2020 taxation year, in light of the COVID-19 pandemic, the CRA has introduced a simplified method of claiming the home office expenses deduction. Employees who worked from home more than 50% of the time over a period of at least four consecutive weeks in 2020 due to COVID-19 will be entitled to claim a deduction of \$2.00 for each day they worked from home in that period, as well as other days worked from home in 2020 due to the COVID-19 pandemic, up to a maximum of \$400.00. Employees will have to choose between this simplified method of claiming the home expense deduction, and the standard detailed method.

(g) Tools for Eligible Tradespersons

Generally, employees may not deduct the cost of tools purchased or used to earn employment income. However, certain deductions are available to "employed tradespersons" required by their employer to acquire the tools as a condition of, and for use in, employment as a tradesperson.

The term "tradesperson" for this deduction is defined broadly. Members do not need to be registered as an apprentice or professional tradesperson. The deduction is available to "any person engaged in an occupation that demands a certain level of skill" ... whether the person is registered or not."

Therefore, it is possible that some members may be eligible for this deduction, which applies only to the purchase of eligible tools exceeding a total cost of \$1,245 (for the 2020 taxation year) to a maximum of \$500. However, the applicability of such deduction would likely need to be considered on an individual basis, taking into account the nature of the work performed.

More information regarding the tradesperson deductions are available on the CRA's website at : <http://www.cra-arc.gc.ca/trades/>