Uber (and Lyft) Drivers' Tax Treatment

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If you are one of the many individuals in the ridesharing business who is working through services such as Uber or Lyft – or if you are thinking of getting into this business – you may have some questions about the tax issues associated with this fast-growing business model. Generally, these drivers do not work full time, and their driving jobs are supplementary to their primary employment.

Uber and Lyft treat drivers as independent contractors as opposed to employees. However, more than 70 pending lawsuits in federal court, plus an unknown number in the state courts, are challenging this independent contractor status. As the courts have not yet reached a decision on that dispute, this analysis does not address the potential employee/independent contractor issue related to rideshare divers; it only deals with the tax treatment of drivers who are independent contractors, using Uber as the example.

How Uber Works – Each fare (customer) establishes an account with Uber using a credit card (CC), Paypal, or another method. The fare uses the Uber smartphone app to request a ride, and an Uber driver picks that person up and takes him or her to the destination. Generally, no money changes hands, as Uber charges the fare's CC, deducts both its fee and the CC processing fee, and then deposits the net amount into the driver's bank account.

Income Reporting – Uber issues each driver a Form 1099-K reflecting the total amount charged for the driver's fares. Because the IRS will treat the 1099-K as gross business income, it must be included on line 1 (gross income) of the driver's Schedule C before adjusting for the CC and Uber service fees. Uber then deposits the net amount into the driver's bank account, reflecting the fares minus the CC and Uber fees. Thus, the sum of the year's deposits from Uber can be subtracted from the 1099-K amount, and the difference can be taken as an expense or as a cost of goods sold. Currently, a third party operates Uber's billing, coordinates the drivers' fares and issues the drivers' 1099-Ks.

Automobile Operating Expenses – Uber also provides an online statement to its drivers that details the miles driven with fares and the dollar amounts for both the fares and the bank deposits.

Although the Uber statement mentioned above includes the miles driven for each fare, this figure only represents the miles between a fare's pickup point and delivery point. It does not reflect the additional miles driven between fares. Drivers should maintain a mileage log to track their total miles and substantiate their business mileage.

A driver can choose to use the actual-expense method or the optional mileage rate when determining operating expenses. However, the actual-expense method requires far more detailed recordkeeping, including records of both business and total miles and costs of fuel, insurance, repairs, etc. Drivers may find the standard mileage rate far less complicated because they only need to keep a contemporaneous record of business miles, the purposes of each trip and the total miles driven for the year. For 2017, the standard mileage rate is 53.5 cents per mile, down from 54.0 cents per mile in 2016.

Whether using the actual-expense method or the standard mileage rate, the costs of tolls and airport fees are also deductible.

When the actual-expense method is chosen in the first year that a vehicle is used for business, that method must be used for the duration of the vehicle's business use. On the other hand, if the standard mileage rate is used in the first year, the owner can switch between the standard mileage rate and the actual-expense method each year (using straight-line deprecation).

Business Use Of The Home – Because drivers conduct all of their business from their vehicle, and because Uber provides an online accounting of income (including Uber fees and CC charges), it would be extremely difficult to justify an expense claim for a home office. Some argue that the portion of the garage where the vehicle is parked could be claimed as a business use of the home. The falsity with that argument is that, to qualify as a home office, the space must be used exclusively for business; because it is virtually impossible to justify that a vehicle was used 100% of the time for business, this exclusive requirement cannot be met.

Without a business use of the home deduction, the distance driven to pick up the first fare each day and the distance driven when returning home at the end of a shift are considered nondeductible commuting miles.

Vehicle Write-off - The luxury auto rules limit the annual depreciation deduction, but regulations exempt from these rules any vehicle that a taxpayer uses directly in the trade or business of transporting persons or property for compensation or hire. As a result, a driver can take advantage of several options for writing off the cost of the vehicle. These include immediate expensing, the depreciation of 50% of the vehicle's cost, normal deprecation or a combination of all three, allowing owner-operators to pick almost any amount of write-off to best suit their particular circumstances, provided that they use the actual-expense method for their vehicles.

The options for immediate expensing and depreciating 50% of the cost are available only in the year when the vehicle is purchased and only if it is also put into business use during that year. If the vehicle was purchased in a year prior to the year that it is first used in the rideshare business, either the fair market value at that time or the original cost, whichever is lower, is depreciated over 5 years.

Cash Tips – Here, care must be taken, as Uber does not permit fares to include tips in their CC charges but Lyft does. Any cash tips that drivers receive must be included in their Schedule C gross income.

Deductions Other Than the Vehicle – Possible other deductions include:

- Cell phone service
- Liability insurance
- Water for the fares

Self-Employment Tax – Because the drivers are treated as self-employed individuals, they are also subject to the self-employment tax, which is the equivalent to payroll taxes (Social Security and Medicare withholdings) for employees—except the rate is double because a self-employed individual must pay both the employer's and the employee's shares.

If you are currently a driver for Uber or Lyft, or if you think that you may want to get into that business, and if you have questions about taxation in the rideshare industry and how it might affect your situation, please give this office a call.