motus

2015 FUEL PRICE REPORT:

THE IMPACT OF NATIONAL FUEL PRICES ON VEHICLE REIMBURSEMENT

The average national fuel price hit a five-year low in 2015,[1] but variations in fuel prices across the country meant that not all Americans benefitted equally at the pump.

Many companies rely on national average prices or the IRS mileage rate (based on national average costs) to determine vehicle reimbursements for mobile employees, but this one-size-fits-all approach is inaccurate. Motus fuel price data* reflects that 34 states had a higher fuel price than the national average in 2015, while 14 states fell below (*See Figure A*). Any organization that uses a national average to reimburse employees is at risk of under or over-paying employees for their actual costs incurred while driving for business (*See Figure B*). In three states (Alaska, Hawaii, and California), fuel prices averaged over 60 cents more per gallon than the national average, placing drivers in these states at a higher risk of being under-reimbursed.

Figure A: Average Fuel Prices Compared to National Average January - December 2015

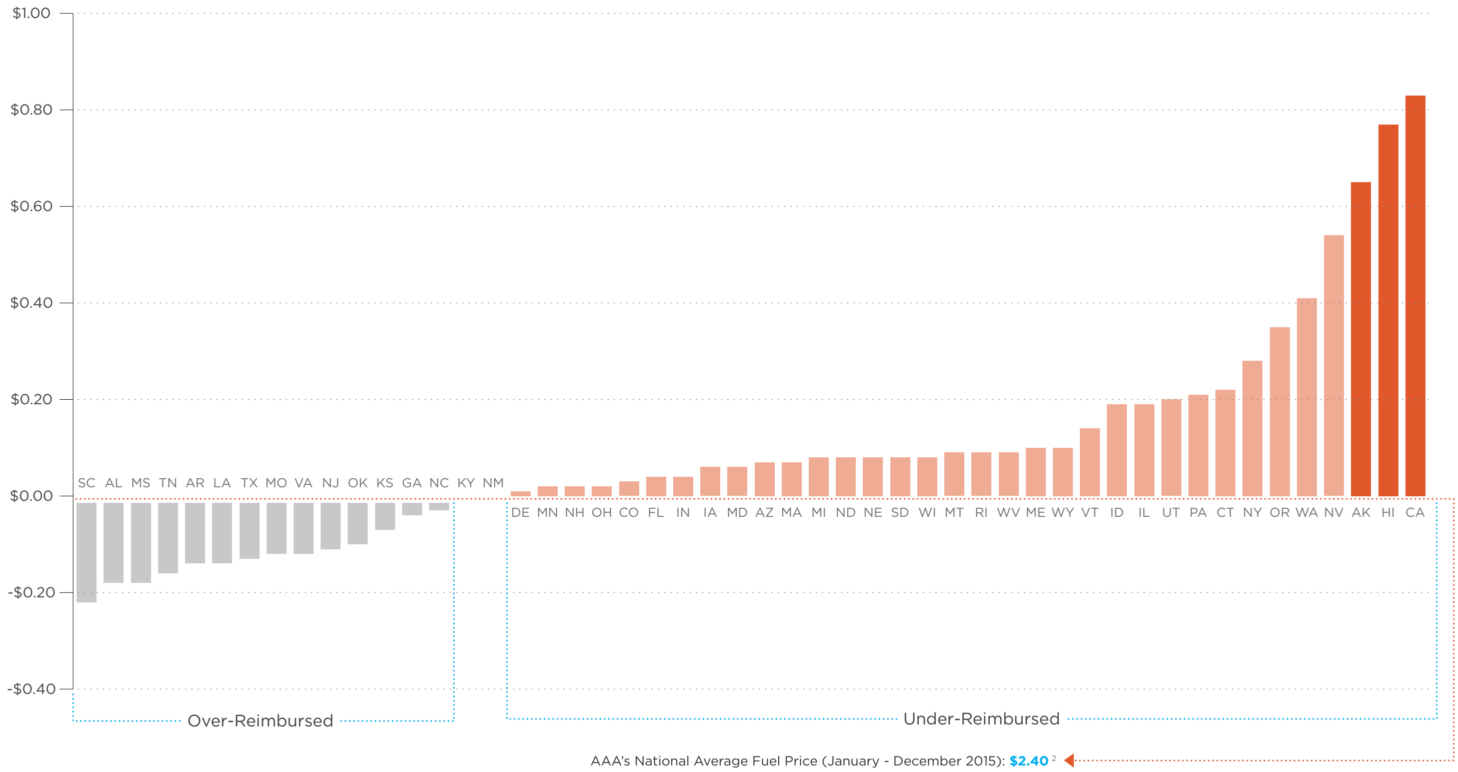
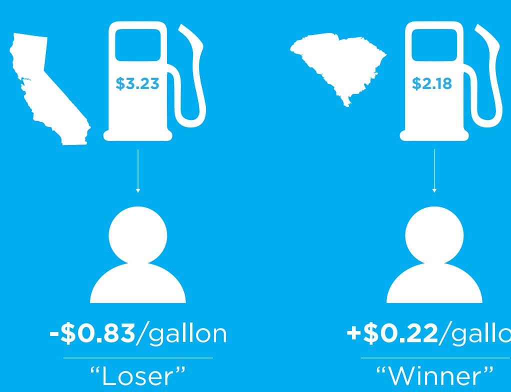


Figure B:

No other business expense is reimbursed based on a national average or flat amount, yet companies are still reimbursing mileage expenses using this antiquated method.

Companies that reimbursed based on a national average fuel price of $2.40 under-reimbursed some employees while over-reimbursing others. For example, an employee in California who paid $3.23 at the pump was shorted $0.83 per gallon. Meanwhile, an employee in South Carolina – where fuel prices averaged $2.18 – pocketed $0.22 per gallon.



[1] Berenson, Tessa. "Gas is Cheaper Than It's Been in 5 Years." Time. January 12, 2015. http://time.com/3663561/gas-prices-fall/

[2] 2015 Gas Prices Second-Cheapest in a Decade AAA Year-End Gas Price Report" AAA Newsroom. December 31, 2015. http://fuelgaugereport.aaa.com/2015-gas-prices-second-cheapest-in-a-decade-aaa-year-end-vgas-price-report/

* Motus fuel price data is based on a direct feed of fuel prices provided by the Oil Price Information Service (OPIS).

A Major Concern for California

A January 2016 news release by Consumer Watchdog reported that Californians paid ten billion dollars more for fuel than the rest of the nation in 2015. [3] Under-reimbursement is a particularly important issue for California, where the workforce is the largest [4] and labor laws are especially stringent. California Labor Code section 2802(a) [5] states that "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful."

This protects California employees from assuming costs on behalf of their employers by requiring employers to reimburse for all necessary work-related expenses, including the costs of driving a personal vehicle for work. Employers who fail to adequately reimburse employees expose their organizations to legal risk and oftentimes-significant settlement costs.Recent lawsuits related to under-reimbursed vehicle expenses have resulted in settlements that ranged from one million [6] to seven million [7] dollars, and such lawsuits could become increasingly common if companies continue to reimburse California employees based on national average costs.

> "Californians paid **ten billion dollars** more for fuel than the rest of the nation in 2015."

Not Just a California Issue

Though California has the most stringent labor laws and received the most publicity in 2015 due to skyrocketing fuel prices, employers in other states must be conscious of reimbursement policy as well. The federal Fair Labor Standards Act (FLSA) [8] requires employers to pay their workers minimum wage, net of any expense-deductions for the employer's benefit. While most employers are aware of minimum wage laws, the tendency to provide inaccurate, flat reimbursement amounts can cause employers to inadvertently violate FLSA regulations.

Employers who fail to meet FLSA laws leave themselves exposed to class action lawsuits, many of which result in multi-million dollar settlements. Domino's, for example, is currently involved in two class action lawsuits, [9] which allege that employees were effectively paid less than minimum wage due to insufficient mileage reimbursements.

While most organizations wouldn't intentionally violate the minimum wage law, inaccurately reimbursing mobile workers can lead to miscalculation. To prevent this misstep, companies must regularly evaluate their vehicle reimbursements to ensure that they are compliant and accurate for their mobile workers.

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[3] "Overpriced California Gasoline Fuels Tripling of Valero's Average Annual Profits." *Consumer Watchdog*. January 28, 2016. http://www.consumerwatchdog.org/newsrelease/overpriced-california-gasoline-fuels-tripling-valero%E2%80%99s-average-annual-profits
[4] U.S. Department of Labor, *Bureau of Labor Statistics News Release: Regional and State Employment and Unemployment – June 2015*. http://www.bls.gov/news.release/pdf/laus.pdf
[5] State of California, *Labor Code: Division 3. Employment Relations*. http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=2802.
[6] Fair, Matt. "Crossmark Reaches $1M Deal to End Wage Class Action." *Law360*. May 22, 2012. http://www.law360.com/articles/342330/crossmark-reaches-1m-deal-to-end-wage-class-action
[7] United States Securities and Exchange Commission, Form 8-K: *Harte-Hanks, Inc. January 28, 2010*. http://investors.hartehanks.com/secfiling.cfm?filingid=1193125-10-15733&cik=45919
[8] U.S. Department of Labor, *Wage and Hour Division: Fact Sheet #16: Deductions From Wages for Uniforms and Other Facilities Under the Fair Labor Standards Act (FLSA)*. http://www.dol.gov/whd/regs/compliance/whdfs16.htm
[9] Hass, Douglas. "Reimbursing Employees for Business Expenses: The FLSA Kickback Rule." *Lexology*. April 24, 2015. http://www.lexology.com/library/detail.aspx?g=c5b0ea54-685c-41e7-92d6-2c15e690a8a6

Accounting for Geographic Cost Variances

Many companies aggregate average costs across the nation and across a time period to determine flat reimbursement rates for all employees. Because reimbursements are based on national averages, drivers in some states are under-reimbursed, while others are over-reimbursed. At Motus, we use technology to capture actual costs and adjust our fixed and variable rates accordingly – in real-time – ensuring the most accurate reimbursements to mobile employees.

Figure C examines how Motus' fuel reimbursement rates correlated with the average fuel prices across five states from January to December 2015. The average fuel costs in these states ranged from a low of $2.18 in South Carolina to a high of $3.23 in California.

While the discrepancy in fuel prices across the country underscores the need for reimbursements to vary by location, accurate vehicle reimbursements must also be sensitive to changes in costs over time. Figure D uses Motus data to demonstrate how fuel reimbursement rates should fluctuate along with changes in fuel prices each month.

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Figure C: 2015 Average Fuel Price vs. Motus Fuel Reimbursement Rate

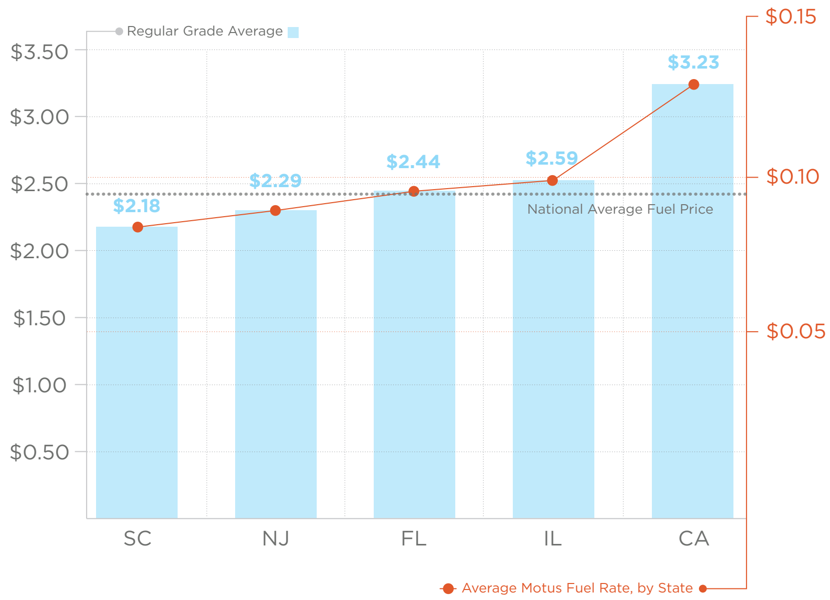
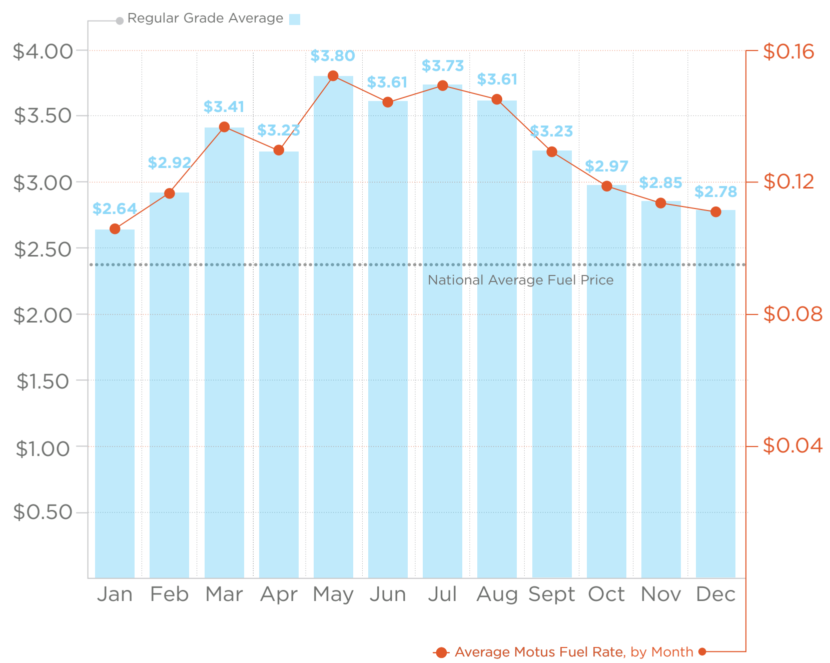


Figure D: Average California Fuel Price vs. Motus Fuel Reimbursement Rate



THE BOTTOM LINE

Vehicle programs that rely on national average prices to calculate reimbursement rates are flawed. Drivers have different costs for owning and operating their vehicles depending on where they live. Flat car allowances or cents-per-mile reimbursement rates which are applied to all drivers, regardless of where they live, over-reimburse some and under-reimburse others. Over-reimbursing mobile employees costs organizations millions of dollars each year, while under-reimbursing exposes employers to significant state and federal labor violations and considerable settlement costs.

To provide accurate reimbursements and mitigate aforementioned risk, employers need a program that is dynamic – one that accounts for varying location-based costs and costs that fluctuate over time. With the US mobile worker population expected to reach 105 million by 2020, [10] accuracy has never been more important and inaccuracies never more costly.

[10] "IDC Forecasts U.S. Mobile Worker Population to Surpass 105 Million by 2020." International Data Corporation. June 23, 2015. https://www.idc.com/getdoc.jsp?containerId=prUS25705415