



Claiming ICBC Benefits for Income Loss for Self-Employed and Service Industry Workers

This Info Sheet provides tips for self-employed and service industry workers;
it is not meant to be a substitute for legal advice.
Seek legal advice if you are unsure of your rights.

SELF-EMPLOYED WORKERS

If you make a claim for income loss due to a motor vehicle accident, and any of your earnings are under the table, (i.e. not declared on your income tax returns), your claim for loss of income related to those earnings will be much more carefully scrutinized by a judge in a Personal Injury Claim. This is particularly true of people in the construction industry who may regularly accept contracts paid in cash.

Calculating Income	As part of the calculation to determine your income, you are allowed to restate your financial statements to include tax-write-offs, which are a benefit to you in your income; a common example of this would be the in-home office. It works in your favour, since it increases your income level.
Proving Business Losses	<p>If you become an innocent victim injured in an accident, it could be very difficult to prove your business losses. It is extremely important that you establish record-keeping methods designed to measure losses as soon as you are injured, if you do not do this as a general business practice.</p> <p>Example: a plumber works in small commercial and residential construction. He is the owner/manager and a working member of his business, and has two employees working for him.</p> <p>If he can no longer work because of a car or motorcycle accident and legitimate physical injuries, he may still be capable of supervising his two employees.</p> <p>However, his employees are not as capable as he is at doing the work. They are junior; they are slower. So, he has to hire another person with more expertise to assist.</p> <p>He may also have to contend with a business slow-down or increase, depending on the normal cycle of business in the construction industry.</p>
Pre-Accident Earnings vs. Post-Accident Earnings	<p>How do you compare this plumber's pre-accident earning capacity to his post-accident earning capacity?</p> <p>This is one example of the complicated and frustrating questions asked of self-employed business owners, and it is the sort of thing with which you need professional and financial assistance.</p>

SERVICE INDUSTRY WORKERS

A service industry worker is someone who works in an industry where tips form part of their income. This can include people working in hotels, restaurants, bars and beauty salons.

Declared and Undeclared Tips

By law you are required to declare your tips on your tax returns. However, failure to do this does not necessarily preclude you from claiming a loss of income if you are injured and are legitimately not recovering the amount of tips you normally received.

As part of a Personal Injury Claim, a judge is concerned with your total loss, which includes your loss of capacity to earn income as well as your tips.

Example: as a server, Susie earns \$8 per hour and works seven hour shifts, five days per week. She makes about \$50 in tips per shift.

However, Susie only declares on her taxes the tips that appear on credit-card sales records, which average \$50 per month. This is much less than the actual amount of tips she makes per month (which is about \$1,000).

Her “total loss” is her hourly wage (\$1,120 per month) plus her actual amount of tips (\$1,000 per month), which equals \$2,120 per month.

Susie is legally required to disclose her tips on her income tax return. Even though she failed to do so, she is not necessarily prevented from recovering her income related to tips. However, she must be able to prove the total amount of her tips (the \$1,000 per month, not just the \$50 per month she declares on her taxes).

Susie needs to establish her average tips relative to her total sales, on a monthly or weekly basis. The credit-card sales records and her total sales as recorded in the restaurant’s records can help her.

Tip on Tips: Calculating estimates of tips

A fairly accurate way to calculate monthly or weekly estimates of your actual tips is by using credit-card receipts and employee sales records. Credit-card slips record actual tips. They can be used to estimate your tips from cash sales.