

# EMPLOYER-PROVIDED VEHICLES\*

## Employer-Provided Vehicles

An employer-provided vehicle which is used 100% for business purposes (except for allowable de minimis use, discussed later) has no tax consequences or reporting. Business use does not include commuting (except as discussed later). Records should be maintained to substantiate that all vehicle use was for business.

### Employer Vehicle Used for Both Business and Personal Use

If an employer-provide vehicle is used for both business and personal purposes, substantiated (see Substantiation Requirements, below) business use is not taxable to the employee. Personal use is taxable to the employee as wages. The employer can opt to include all use as wages; however, the employee can pay the employer for personal use rather than having it treated as wages *Reg. § 1.61-21(c)*

### What is Personal Use?

The following are examples of taxable personal use of an employer-provided vehicle:

- Commuting between residence and work station, and vacation, weekend use, or use by spouse or dependents. *Reg. § 1.162-2(e)*
- The employee goes into his office on the weekend. This is personal commuting, regardless of whether it is required by the employer.

### Examples of De Minimis Nontaxable Personal Use

- Small personal detour while on business, such as driving to lunch while out of the office on business.
- Infrequent (not more than one day per month) commuting in employer vehicle. This does not mean that an employee can receive excludable reimbursements for commuting 12 days a year. The rule is available to cover infrequent, occasional situations. *Reg. § 1.132-6(d)(3)*

**Example:** An employee uses a motor pool vehicle for a business meeting. The employer requires that motor pool vehicles be returned at the end of the business day, but the employee is delayed and the motor pool is closed when the employee arrives back at the office. The employee takes the vehicle home and returns it the next morning.

Assuming that this is an infrequent occurrence for that employee, that is, generally happens no more than once a month, the commuting value of the trip would be considered a nontaxable de minimis fringe benefit. If not an infrequent occurrence, the commute would be taxable to the employee.

\*Excerpt from the Internal Revenue Service Taxable Fringe Benefit Guide for Federal, State and Local Governments

# EMPLOYER-PROVIDED VEHICLES

## Substantiation Requirements

Separate records of business and personal mileage are required. *IRC 274(d)*

**If records are not provided by the employee**, the value of **all** use of the automobile is wages to the employee, and the employee can then deduct any substantiated business use on Form 1040. *Reg. §1.132-5(b)*

**If records are provided by the employee to the employer**, only the personal use of the automobile is wages to the employee.

Exceptions to the recordkeeping requirements apply in certain situations discussed later in this chapter.

## Valuing Personal Use of Employer-Provided Vehicle

Personal use of an employer's vehicle is a taxable wage to the employee. The following procedure should be used to determine how much to include in wages on the employee's Form W-2. *Reg. §1.162-2(d)*

**Step 1:** Compute personal use based on miles driven **Example:**  
2,000 personal miles/10,000 total *miles* = 20% *Personal use*

**Step 2:** Apply valuation rule - General Valuation Rule or one of three special automobile valuation rules

## General Valuation Rule

### Computation:

1. Determine what employee would pay to lease auto ( FMV\*).
2. Multiply FMV by % of personal use (computed in Step 1).  
Example: Cost to lease car (FMV) for 1 yr. plus value  
of fuel provided \$ 4,000
3. Multiply by 20% personal use  
Include in wage of employee 20%  
\$ 800

\* FMV (fair market value) - the amount an employee would have to pay to a third party in an arms-length transaction. *Reg. § 1.61-21(b)(4)*

## Three Special Automobile Valuation Rules

- **Automobile Lease Valuation Rule** *Reg. §1.61-21(d)*

## EMPLOYER-PROVIDED VEHICLES

- **Vehicle Cents-Per-Mile Rule** *Reg. §1.61-21(e)*
- **Commuting Rule** *Reg. §1.61-21(f)*

### General requirements for using these special valuations:

- Employer and employee must timely report personal use as wages.
- Generally, the rules are applied on a vehicle-by-vehicle basis.
- Employer may use different rules for different vehicles.

### Automobile Lease Valuation Rule

#### Computation:

1. Determine the fair market value (FMV) of vehicle on first day made available to employee.
2. Use the table in Reg. §1.61-21(d)(iii) or Pub. 15-B to compute the annual lease value;
3. Multiply the annual lease value by the percentage of personal use computed in Step 1.
4. If fuel is provided, add 5.5¢ per mile driven by the employee to the table lease value.

Maintenance and insurance costs are included. *Reg. §1.61-21(d)*

**Note:** The employer's cost, including tax, title, etc. may be used to determine the FMV. See the Regulations for information on the valuation of leased vehicles. *Reg. §1.61-21(d)(5)*

**Example:** Joe, an employee of Agency XYZ, uses an agency-provided car. In 2008, Joe drives the car 20,000 miles, of which 4,000 were personal miles or 20% ( $4,000/20,000 = 20\%$ ). The FMV of the car is \$14,500 for an Annual Lease Value of \$4,100. Personal use is valued at \$820: ( $\$4,100 \times 20\%$ ) plus \$220 ( $5.5¢ \times 4,000$  miles) for fuel costs. \$1,040 ( $\$820 + \$220$ ) is included in Joe's wages.

#### Recalculation of Value after 4-Year Lease Term

Once computed, the Annual Lease Value remains in effect until 12/31 of the 4th full calendar year after the rule is first applied. *Reg. §1.61-21(d)(2)*

**Example:** Joe is assigned an agency-provided car on 2/17/08. The agency uses the same \$4,100 annual lease valuation until 12/31/12. After the 4<sup>th</sup> full year, or if the vehicle is transferred to another employee, the value may be recalculated (unless the purpose of the transfer is only to reduce the tax).

#### Daily Lease Value

## EMPLOYER-PROVIDED VEHICLES

This method is required if the vehicle is available for less than 30 days. Figure the daily lease value by multiplying the annual lease value by a fraction, using four times the number of days of availability as the numerator, and 365 as the denominator.

However, you can apply a prorated annual lease value for a period of continuous availability of less than 30 days by treating the automobile as if it had been available for 30 days. Use a prorated annual lease value if it would result in a lower valuation than applying the daily lease value to the shorter period of availability.

*Reg. §1.61-21(d)(4)*

### Fleet Average Value

If the employer has 20 or more vehicles (for 2007, each valued at less than \$20,100) used for business and personal by employees, a "fleet-average value" may be used to calculate the Annual Lease Valuation. *Reg. §1.61-21(d)(5)(v); Rev. Proc. 2007-11*

---

## Vehicle Cents-Per-Mile Rule

### Requirements

The vehicle must meet one of the following tests:

- It is regularly used (50% or more each year) in the employer's business, or is
- Generally used each workday to transport at least three employees to and from work, in an employer sponsored commuting vehicle pool, or is
- Driven by employees at least 10,000 miles per year.

### Continued Usage Rule

You must continue using the cents-per-mile rule for the vehicle unless the vehicle no longer meets the requirements, except an employer may change to the commuting valuation rule.

### Non-Availability Rule

The cents-per-mile valuation rule cannot be used for vehicles with FMV exceeding \$15,100 (2007) Note: This amount is revised annually. *Rev. Proc. 2007-11 ; Rev. Proc. 2006-18 Reg. §1.61-21(e)(1); Reg. 1.280F Computation*

### Computation

Multiply the standard mileage rate by number of personal miles driven. If fuel is not provided, the standard mileage rate can be reduced by up to 5.5 cents (50.5 cents – 5.5 cents = 45 cents in 2008). *Reg. §1.61-21(e)*

## EMPLOYER-PROVIDED VEHICLES

**Example:** Joe drives his agency-provided car for 2,000 personal miles in 2008. The amount included as a wage is \$1,010 (50.5 cents x 2,000 personal miles) or if no fuel is provided it would be \$900 (45 cents x 2000 miles).

Multiply the standard mileage rate by number of personal miles driven. If fuel is not provided, the standard mileage rate can be reduced by up to 5.5 cents (50.5 cents – 5.5 cents = 45 cents in 2008). *Reg. §1.61-21(e)*

**Example:** Joe drives his agency-provided car for 2,000 personal miles in 2008. The amount included as a wage is \$1,010 (50.5 cents x 2,000 personal miles) or if no fuel is provided it would be \$900 (45 cents x 2000 miles).  
(d)(7)

---

### Commuting Valuation Rule

---

**Personal use for commuting can be valued at \$1.50 each way if:**

- The vehicle is owned or leased by the employer;
- The vehicle is provided to the employee for business use; and
- The employer requires the employee to commute in the vehicle for a valid non-compensatory business reasons
- Employer has a written policy prohibiting personal use other than commuting, and
- Employee does not use the vehicle for other than de minimis personal use

If more than one employee commutes in the vehicle, the \$1.50 each-way rule applies to each employee. *Reg. §1.61-21(f)*

**Note:** The employer must *require* the employee to use the vehicle for a *business* purpose; it cannot be voluntary on the employee's part.

**Example:** A transportation employee, who is on call 24 hours a day to respond to road emergencies, is required by his employer to commute in a vehicle outfitted with communications or other equipment the employee would need if called out at night.

### Commuting Rule Not Available for “Control Employee”

Personal use of a vehicle by a "control employee" cannot be valued using the commuting valuation rule (\$1.50 rule). A control employee in a governmental organization is either an:

1. Elected official, or an
2. Employee whose compensation is at least as great as a Federal government employee at Executive Level V (2008 - \$139,600) *Reg. §1.61-21(f)(6)* ; EO 1/4/08

## EMPLOYER-PROVIDED VEHICLES

Instead of the above definition of control employee, the employer may treat all employees who are “highly compensated” (Generally, for 2008, those exceeding \$105,000 compensation) as their only control employees. *Reg. 1.132-8(f); Rev. Proc. 2006-53*

**Example:** An agency in a rural area does not have secure parking and has had a history of vandalism to its vehicles. The employer requires employees using the vehicles for the day on business to take the vehicles home overnight. The trip home and to the office the next day is considered taxable personal commuting. The commuting may be valued at \$1.50 each way since the employee had a valid noncompensatory business reason for commuting in the employer's vehicle. If this was an unusual situation for the employee, that is, generally occurring no more than once a month, the commuting could be considered a nontaxable de minimis fringe benefit.

**Example:** An agency requires an employee to take home a van to carry displays and equipment to a trade show the next day. In this situation, the commuting could be valued at \$1.50 for the trip from the office to home since the agency is requiring the employee to use a specific vehicle for valid business reasons (assuming the other rules listed above are met). If this was an unusual situation for the employee, that is, generally occurring no more than once a month, the commuting could be considered a nontaxable de minimis fringe benefit.

### Qualified Nonpersonal Use Vehicle

Use of a qualified nonpersonal-use vehicle, including commuting, is excludable to the employee; and recordkeeping and substantiation by the employee are not required by the IRS. *Reg. § 1.274-5T(k); Reg. § 1.132-5(h)*

### Qualified Nonpersonal Use Vehicle

A qualified nonpersonal use vehicle is any vehicle that the employee is not likely to use more than minimally for personal purposes because of its design. Qualified nonpersonal use vehicles generally include all of the following vehicles.

- Clearly marked police and fire vehicles\*
- Unmarked vehicles used by law enforcement officers if the use is officially authorized\*
- Qualified specialized utility repair truck\*
- An ambulance or hearse used for its specific purpose
- Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds
- Delivery trucks with seating for the driver only, or the driver plus a folding jump seat
- A passenger bus with a capacity of at least 20 passengers used for its specific purpose