

Q: “What is personal use of a state vehicle?”

A: 2.7.1 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.

2.7.2 EXAMPLES OF DE MINIMIS NONTAXABLE PERSONAL USE

- SMALL PERSONAL DETOUR (DEFINED AS LESS THAN 5 MILES EACH DIRECTION) 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.

SEPARATE RECORDS OF BUSINESS AND PERSONAL MILEAGE ARE REQUIRED. /RC 274(D)

2.7.3 IRS REQUIREMENTS FOR EMPLOYER PROVIDED VEHICLES

THE INTERNAL REVENUE SERVICE REQUIRES PAYROLL TAX WITHHOLDING AND COMPENSATION REPORTING (W- 2) FOR EMPLOYEES USING STATE-OWNED VEHICLES FOR NON-BUSINESS OR COMMUTING PURPOSES. THESE EMPLOYEES MUST COMPLETE AND CERTIFY STATEMENTS OF EMPLOYER PROVIDED VEHICLE USE EACH PAYROLL PERIOD.

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)

*EXCERPT FROM THE INTERNAL REVENUE SERVICE TAXABLE FRINGE BENEFIT GUIDE FOR FEDERAL, STATE AND LOCAL GOVERNMENTS

2.8 TAKE HOME VEHICLE ASSIGNMENT CRITERIA

2.8.1 EACH AGENCY HEAD HAS DISCRETION TO DECIDE WHETHER A TAKE HOME VEHICLE SHOULD BE ASSIGNED TO A QUALIFYING EMPLOYEE. FOR EMPLOYEES TO BE ASSIGNED A TAKE HOME VEHICLE, THE AGENCY MUST SHOW THAT THE DUTIES OF THE EMPLOYEE MEET ONE OF THE FOLLOWING CRITERIA.

1. IN THE CASE OF AN ELECTED OR APPOINTED STATE OFFICER, IT SHALL BE SHOWN THAT THE DUTIES OF THE OFFICE REQUIRE DRIVING ABOUT THE STATE OF WEST VIRGINIA IN THE PERFORMANCE OF OFFICIAL DUTY.

2. IN THE CASE OF DEPARTMENT OR COMMISSION HEADS, IT SHALL BE SHOWN THAT THE STATUTORY DUTIES IMPOSED IN THE DISCHARGE OF THE OFFICE REQUIRE TRAVELING A DISTANCE GREATER THAN ONE THOUSAND (1,000) MILES EACH MONTH OR THAT THEY ARE SUBJECT TO OFFICIAL DUTY CALL AT ALL TIMES.

3. IN THE CASE OF EMPLOYEES, IT MUST BE SHOWN THAT THE MAJOR PORTION OF THE DUTIES ASSIGNED TO THE EMPLOYEE MUST REQUIRE TRAVEL ON STATE BUSINESS IN EXCESS OF ONE THOUSAND (1,100) MILES EACH MONTH, OR THAT THE VEHICLE IS IDENTIFIED BY THE AGENCY AS AN INTEGRAL PART OF THE JOB ASSIGNMENT. IN ADDITION, AT LEAST ONE OF THE FOLLOWING CRITERIA MUST BE MET:

A. THE JOB REQUIRES AN EMPLOYEE TO BE ON CALL ON A RECURRING BASIS BEYOND NORMAL DUTY HOURS AND, WHEN CALLED OUT, REQUIRES IMMEDIATE TRAVEL FROM A RESIDENCE TO A LOCATION WHERE SPECIFIC SKILLS, SERVICES, TOOLS, EQUIPMENT OR SUPPLIES ARE NECESSARY TO PERFORM THE JOB. THIS IS TYPICALLY BASED ON THE REPORTING ON THE NUMBER OF CALL OUTS DURING THE LAST 12 MONTHS.

B. THE JOB INVOLVES LEAVING DIRECTLY FROM HOME TO A CONTINUALLY VARIABLE WORK STATION, IN WHICH TRAVEL TO A CENTRAL LOCATION TO OBTAIN A STATE-OWNED VEHICLE WOULD RESULT IN SIGNIFICANT AMOUNTS OF UNNECESSARY TRAVEL TIME AND LOSS OF PRODUCTIVE HOURS.

C. THE EMPLOYEE WORKS FROM A HOME OFFICE WITH CONTINUAL VARIABLE WORK STATION (INSPECTORS, CASE WORKERS, INVESTIGATORS, ETC.).

D. THE EMPLOYEE IS A LAW ENFORCEMENT OFFICER OR A PUBLIC SAFETY EMERGENCY RESPONDER.

IN COMPUTING THE NUMBER OF MILES REQUIRED TO BE DRIVEN BY A DEPARTMENT HEAD OR AN EMPLOYEE, THE DISTANCE BETWEEN THE INDIVIDUAL'S HOME AND OFFICE OR DESIGNATED OFFICIAL STATION MAY NOT BE CONSIDERED AS A PART OF THE TOTAL.

EMPLOYEES WHO ARE ASSIGNED A STATE-VEHICLE ON A TEMPORARY BASIS MAY TAKE THAT VEHICLE TO THEIR PLACE OF RESIDENCE FOR DE MINIMIS COMMUTE USAGE, SUCH AS STAGING THE VEHICLE AT HOME IN PREPARATION TO TRAVEL THE NEXT DAY OR RETURNING FROM TRAVEL TO YOUR HOME TOO LATE IN THE DAY TO RETURN THE VEHICLE TO YOUR DUTY LOCATION.

2.8.2 ANNUAL TAKE HOME VEHICLE JUSTIFICATION DEPARTMENT HEADS MUST ANNUALLY COMPLETE STATE FORM (JUSTIFICATION OF TAKE HOME VEHICLE ASSIGNMENT) FOR EACH TAKE HOME VEHICLE ASSIGNED IN THEIR DEPARTMENT. COMPLETED FORMS MUST BE SUBMITTED TO FLEET MANAGEMENT DIVISION, ATTN: FLEET ADMINISTRATION NO LATER THAN DECEMBER 31ST EACH YEAR OR WHENEVER A TAKE HOME VEHICLE IS NEWLY ASSIGNED OR REASSIGNED. THIS FORM SERVES AS THE AGENCY'S JUSTIFICATION OF TAKE HOME VEHICLE ASSIGNMENT AND PROOF OF MEETING THE CRITERIA OUTLINED ABOVE.