

BlumShapiro

2009 Guide to Valuation of Personal Use of Employer-Provided Vehicles and Other Select Taxable Fringe Benefits

Changes to note:

The automobile mileage rates are:

- o 55 ¢ for 2009
- o **. * ¢ for 2010. (not available yet)

The FICA limit on wages including taxable fringe benefits:

- o \$ 106,800 in 2009
- o \$ 106,800 in 2010

Please review the guidelines in time to prepare the 2009 wage reporting statements. Remember that your company must comply by December 31, 2009. If you have any questions or require further assistance, please contact Blum Shapiro at 860-561-4000.

There are model policy statements, employee notification forms, and an annual lease value method worksheet after page 4.

General Rules

If an employer provides an employee with the use of a company-owned or leased vehicle, the value of the employee's personal use must be added to the employee's gross income as a taxable fringe benefit. The value of personal use is tax exempt only if:

1. The employer-provided vehicle is used 100% for business reasons and a signed employer-employee policy of "no personal use" is in place.

-OR-

2. As a working condition fringe benefit for a full-time automobile salesperson that uses a demonstration vehicle for qualified use, provided certain conditions are met. The demo must be provided primarily to facilitate the salesperson's performance of services for the dealership and there must be substantial restrictions placed on the personal use of the demo. Certain substantiation requirements must also be satisfied. Please contact a member of our dealership services group if you would like help implementing a qualified demo plan.

BlumShapiro

Valuation Methods

The amount includable in the employee's gross income is generally the value of the availability of the vehicle to the employee. Under this general valuation principle, the fringe benefit is the amount a person would pay to an outside third party to obtain the use of the auto. In the instance of a leased vehicle, the fringe benefit that may be reported is the actual cost of the lease, including sales, personal property taxes and any other employer-paid expenses. However, three alternative methods of valuation are available:

1. Commuting value method
2. Cents per mile method
3. Annual lease value method

The same method need not be used for all vehicles. However, once a method is adopted for a particular vehicle, it must continue to be used for all later tax years. The employer must notify the employee of the valuation method used, the substantiation requirements and the effect of failing to comply with the substantiation requirements by the latter of January 31 (of the year the benefit is being provided) or 30 days after the benefit is first provided.

There is a special rule that allows employers to compute personal use income from November 1 of the prior year to October 31 of the current year (or any other 12-month period ending in November or December).

The employer may change the accounting period (without approval of the IRS) for personal use of autos for an appropriate administrative reason. If a special accounting period is used, the employer must notify affected employees no earlier than the date of their last paychecks for the calendar year and no later than when Forms W-2 are distributed. Notification to the IRS is not required.

Valuation Methods Described

Commuting value method - A signed employer-employee policy of "no personal use except commuting" results in a taxable fringe benefit of \$1.50 per one-way commute. A daily round-trip commute results in a \$3.00 per day taxable fringe benefit. No adjustment is made for fuel used. This method is not available for vehicles used by shareholders or officers.

Cents per mile method - May be used if the vehicle is used primarily by an employee, driven at least 10,000 miles a year, and the vehicle's original value does not exceed \$15,000 for a passenger automobile and \$15,200 for a truck or van if made available to the employee in 2009.

Personal use is calculated at:

55.5 cents per mile for 2009.

**.5 cents per mile for 2010 (not available).

If fuel is not provided by the employer, the rate per mile may be reduced by 5.5 cents.

Annual lease value method - The annual lease value table is used. The annual lease value method may only be used for employer-provided automobiles while the other two alternative methods are available for all vehicles.

BlumShapiro

Substantiation Requirements

No deductions are allowed for any vehicle expenses unless there is adequate evidence. Your company's tax return should provide information detailing each vehicle's business miles, personal miles, and commuting miles. You should also obtain, for your own records, a list of the employee's business contacts made and the nature of business conducted when the auto is used for business purposes. As an employer providing vehicles to employees, you can meet the record keeping requirements in the following ways:

- Retain a copy of business mileage records maintained by each employee and inquire of employees as to commuting and personal mileage.
- Obtain a statement from each employee detailing business, commuting and other personal miles. It should be noted that business miles include commuting from home to a temporary work location.

If you prefer to avoid the administrative burden of obtaining the personal use percentages of any or all employees, you may include 100% of the personal use value in the employee's gross income. The affected employees may then take a deduction on their individual tax returns for the business use of the vehicle. Their business use is computed by multiplying their business percentage by the total value included in their wages. This deduction is claimed on the employee's Form 2106 attached to their Federal Form 1040. However, this method is generally not beneficial to employees. All except "statutory employees" are subject to the 2% of Adjusted Gross Income limitation, which in most cases eliminates the allowance of any deduction.

Other Taxable Fringe Benefits

If a corporation pays a personal expense (vs. a business expense) of an employee, that payment generally constitutes income (or a loan) to the employee. This income is subject to federal and state income tax, Social Security taxes and state unemployment tax.

- Common examples of other taxable fringe benefits are:
- Accounting fees paid for the preparation of individual income tax returns (of either owners or employees)
- Legal fees paid outside of a qualified employee benefit plan
- Life insurance premiums paid for other than group-term coverage under \$50,000
- Expenses paid for personal entertainment
- Allowances for business expenses which are not paid under a direct reimbursement ("accountable") plan.

Reporting Taxable Fringe Benefits

Taxable fringe benefits must be reported on Forms W-2, 941, 940, and the state unemployment tax return under the category of "Wages, Tips, and Other Compensation." This amount is reported and taxed as "Social Security Wages" if the employee is under the FICA wage limit. These limits are \$106,800 for 2009 and 2010. The amount is also reported and taxed as "Medicare Wages" which has no wage limit.

BlumShapiro

More specifically, on Form W-2, taxable fringe benefits must be included in boxes 1, 5, and possibly 3. This reporting may be done on a supplemental Form W-2 or may be combined with the employee's regular wages on a single W-2. The lease value of a vehicle provided to your employee and reported in box 1 must be reported in box 14 or in a separate statement to your employee. No other taxable fringe benefits are required to be separately reported in box 14.

Withholding on Taxable Fringe Benefits

Withholding of Federal Income Taxes and Social Security Taxes

An employer may elect, for income and employment tax purposes, to treat taxable fringe benefits as paid per pay period, quarterly, semi-annually, or annually. The benefit is treated as cash wages paid on the date(s) selected, and the general withholding methods and deposit rules must be followed. The same election need not be made for each employee. The IRS does not have to be notified of the election, and the election can be changed at any time. If the employee desires, the may have federal income tax withheld at the rate currently applicable to supplemental wages (25% for 2009 & 2010).

Withholding and quarterly payroll tax reporting may be done in any quarter during the year, but must be done by December 31, 2009. Employers can include the personal use value in the last pay period of the year and withhold 25% federal income tax and 5% state income tax, as well as 6.2% FICA tax (where applicable) and 1.45% Medicare tax from those paychecks.

Election Not to Withhold Federal Income Taxes

An employer may elect not to withhold federal income taxes on the taxable fringe benefits, but the employer must still withhold FICA tax (if the employee has not yet reached the FICA limit) and Medicare tax on the full amount. The same election need not be made for each employee. The IRS does not need to be notified of the election, and the election can be changed at any time. If the employer makes the election not to withhold, he must give the employee written notice of his intent not to withhold federal and state income taxes on the value of personal use. This notice must be given to the employee by January 31, 2010 for 2010. For 2009, if the employer failed to make this election by January 31, 2009, he must withhold taxes as described in the "Withholding of Federal Income Taxes and Social Security Taxes" section above.

If no withholding is made where FICA and/or Medicare tax withholding is required, wages must be "grossed up" to include as compensation the Social Security taxes paid for the employee by the employer. To gross up wages, divide the taxable fringe benefit(s) by .9235 (if subject to full FICA tax) or by .9855 if subject only to the Medicare tax. The result is a higher amount which then becomes the taxable fringe benefit reported on Forms W-2, 941, 940, and the state unemployment tax return.

This is intended as a guide only. Please contact your professional tax advisor with any specific questions you may have or contact a member of Blum Shapiro's Tax Department at (860) 561-4000

Company Name

Policy Statement on Prohibited Personal Use of Company-Owned Vehicles

TO: _____

DATE: _____

SUBJECT: The Following Vehicles:

1. The above-listed vehicles are either owned or leased by the Company and are provided solely for business use.
2. When the vehicles are not being used for business purposes, they must be kept on Company premises except when they are temporarily located elsewhere for repairs, etc.
3. No employee, friend, associate, or family member of any employee may use any of the above vehicles for personal use other than de minimis personal use by the employee, such as a stop for lunch between two business appointments. **NO OTHER PERSONAL USE BY AN EMPLOYEE IS PERMITTED.**

If the above conditions are met, the employee need not keep records for the use of the vehicle.

Contact _____ for further accounting details.

Company Name

**Policy Statement on Prohibited Personal Use of
Company-Owned Vehicles Other Than Commuting**

TO: _____

DATE: _____

Under Federal tax law, an employer may provide an employee with a vehicle for use in the employer's trade or business under a written policy which prohibits personal use of the vehicle other than commuting – the "Commuter Rule." If such policy is properly enforced, the business use of the vehicle need not be substantiated with a diary, log, etc. Records should be kept to show that the vehicle is being used for commuting purposes only.

You have been provided with a vehicle for use under the "Commuter Rule" and are subject to the following conditions:

1. The Company owns or leases the vehicle which is provided to you for business use.
2. As an employee you are required to commute to and from work in the vehicle for the following business reason(s):

3. Neither you, nor any friend, associate, or member of your family may use the vehicle for personal use, other than de minimis personal use by you -- such as a stop for a personal errand on the way home.
4. You are not an officer, director, 1% owner, or an employee whose compensation exceeds \$195,000 in 2009 or 2010. This provision does not apply if the vehicle is other than an automobile (i.e., truck, van, or other vehicle equipped with racks or tools, or designed for other specialized purposes).
5. The following amounts shall be included in your employee gross income, subject to withholding, to the extent that such amounts are not reimbursed to the Company: \$1.50 per one-way commute, and \$3.00 per round-trip commute.

Contact _____ for further accounting details.

Company Name

Notification to Employees to Use a Special Valuation Method for Determining the Taxable Amount of Personal Use of Company-Owned Vehicle

TO: _____

DATE: _____

The value of your personal use of a company-owned vehicle in excess of the amount you pay for that use is a taxable fringe benefit. Regulations permit an employer to elect the use of a special valuation method checked below for determining the value of the personal use of your employer-owned vehicle.

_____ 1. Commuting Value Method

_____ 2. Cents Per Mile Method

_____ 3. Annual Lease Value Method

_____ 4. We will choose between methods _____ and notify you at a later date.

You are required to substantiate your business use of the company-owned vehicle. This can be done with a written auto log, diary or other written records such as entries in a personal calendar. You will need to submit your records or a statement showing total business, commuting and other personal miles when requested (at least annually).

If you do not substantiate your business use, 100% of your vehicle use may be treated as personal use, the value of which will be included in gross wages on your Form W-2.

Contact _____ for further accounting details.

Please sign and date this notice and return it to: _____

to acknowledge receipt.

Employee Signature

Date

BlumShapiro

Annual Lease Value Method

1. Determine the fair market value of the automobile as of the first date it was made available for the personal use to any employee. If the vehicle is owned or leased for more than four years, the fair market value is redetermined (as reported by a nationally recognized pricing source) as of the first January 1 following the fourth full year the vehicle is owned and will remain in effect for four years. For example, a vehicle purchased in February 2004 would need to be revalued on January 1, 2009.
2. Then use the annual lease value (ALV) table to determine the corresponding ALV (Table at Appendix 5).
3. Multiply the ALV by the employee's personal use percentage.
4. Additional adjustments may be necessary if the vehicle was only used for part of the year or if fuel was provided by the employee.
5. If there are no cash wages from which to withhold FICA taxes, you must gross up the wages to add employee FICA taxes to the taxable fringe benefit.

Employee: _____ Personal Miles: _____

Year, Make & Model of Vehicle: _____ Total Miles: _____

Computational Worksheet

Computation of the personal use value of a business automobile using the ALV method:

1. FMV of vehicle. _____
2. ALV based on #1 (see Annual Lease Value Table). _____
3. Personal use percentage (personal miles _____/total miles). _____
4. Multiply line 2 by percent on line 3. _____
5. Portion of year available (____ days available/365 = ____%). _____
6. Personal portion of ALV Multiply line 4 by percent on line 5. _____
7. Fuel paid for by employer - Use actual value to employee or (5.5 cents x _____ personal miles) _____
8. Tentative taxable fringe benefit – Add line 6 and line 7. _____
If FICA tax is withheld from other cash wages, stop here.
If not, complete line 9. _____
9. Gross up for FICA - Divide line 8 by .9235 if employee wages are not over \$106,800 or by .9855 if employee wages are over \$106,800 for 2009. The result is the taxable fringe benefit. _____

NOTE: This worksheet can be also be used to compute the taxable fringe benefit during 2010. Use the 2010 Social Security taxable wage limit of \$106,800 on line 9.

BlumShapiro

Annual Lease Value Table

(1) <i>Automobile Market Value</i>	(2) <i>Annual Lease Value</i>
\$ 0 - 999	\$ 600
1,000 - 1,999	850
2,000 - 2,999	1,100
3,000 - 3,999	1,350
4,000 - 4,999	1,600
5,000 - 5,999	1,850
6,000 - 6,999	2,100
7,000 - 7,999	2,350
8,000 - 8,999	2,600
9,000 - 9,999	2,850
10,000 - 10,999	3,100
11,000 - 11,999	3,350
12,000 - 12,999	3,600
13,000 - 13,999	3,850
14,000 - 14,999	4,100
15,000 - 15,999	4,350
16,000 - 16,999	4,600
17,000 - 17,999	4,850
18,000 - 18,999	5,100
19,000 - 19,999	5,350
20,000 - 20,999	5,600
21,000 - 21,999	5,850
22,000 - 22,999	6,100
23,000 - 23,999	6,350
24,000 - 24,999	6,600
25,000 - 25,999	6,850
26,000 - 27,999	7,250
28,000 - 29,999	7,750
30,000 - 31,999	8,250
32,000 - 33,999	8,750
34,000 - 35,999	9,250
36,000 - 37,999	9,750
38,000 - 39,999	10,250
40,000 - 41,999	10,750
42,000 - 43,999	11,250
44,000 - 45,999	11,750
46,000 - 47,999	12,250
48,000 - 49,999	12,750
50,000 - 51,999	13,250
52,000 - 53,999	13,750
54,000 - 55,999	14,250
56,000 - 57,999	14,750
58,000 - 59,999	15,250

• For leased new vehicles, 92% of the manufacturer's suggested retail price, plus sales tax and title fees, may be used for vehicle value.

• For vehicles having a fair market value greater than \$60,000, the annual lease value is equal to (.25 x the fair market value) + \$500.

Company Name

**Notification to Employees of Election Not to Withhold Income
Taxes on Personal Use of Company-Owned Vehicle**

TO: _____

DATE: _____
(Not later than January 31, 2010)

FOR YEAR ENDING: December 31, 2010

Generally, you are subject to Federal and State income tax withholding on the personal use value of a company-owned vehicle. Employers are allowed the option not to withhold Federal taxes on this value. We are still required, however, to include this taxable fringe benefit on your Form W-2.

This is your notification that the Company is electing not to withhold Federal or State income taxes on the personal use value of a company-owned vehicle. We are still required to withhold Social Security and Medicare taxes on this value, however, and will continue to do so. To avoid having to pay additional taxes due when you file your income tax return, you may wish to amend your Forms W-4 and CT W-4 Withholding Certificate to provide additional withholding. Alternatively, you may wish to make estimated tax payments to the IRS and State of Connecticut.

Contact _____ for
further accounting details.

Please sign and date this notice and return it to: _____
to acknowledge receipt.

Employee Signature

Date

*This notice must be given to the employee by January 31, 2010 for calendar year 2010 or within 30 days after a vehicle is first provided to the employee in 2010, if later.