



To: Employers Providing Employee Use of Company Owned Vehicles

Subject: IRS Company Vehicle Rules

Date: September 27, 2006

The enclosed information is being provided to our clients whose company is providing either company owned or leased automobiles to shareholder/employees for business as well as personal use. Because the IRS is significantly increasing the number of small business audits performed, it is important that the necessary records be in place to support this substantial deduction.

Three sample automobile policies have been included for your review. Policies 1 and 2 are optional for an employer. Policy 3 is required in some form by all employers who provide company-owned personal use vehicles. These policies are complex, but should be reviewed and implemented to ensure your company's records comply with applicable IRS rules.

I urge you to review the enclosed information carefully and call me to discuss for further clarification. In the event of an audit, the entire amount of auto expense deduction taken will be disallowed if adequate records do not support the expense claimed. This can potentially result in a significant assessment of additional tax, penalties and interest.

Sincerely,

Mark G. Borel, CPA
MARK BOREL & ASSOCIATES, INC.

VEHICLE RELATED GUIDES

EMPLOYER POLICIES REGARDING USE OF COMPANY VEHICLES

Three policies have been included that may be provided to clients as examples. Policies 1 and 2 are optional for an employer. Policy 3 is required in some form by all employers providing company-owned personal use vehicles. The policies should be reviewed to determine if there are conflicts with state or local laws.

EMPLOYEE REPRESENTATION REGARDING USE OF COMPANY VEHICLE AND WORKSHEET TO CALCULATE INCOME FROM PERSONAL USE OF COMPANY VEHICLE

The IRS requires the value of the personal use of employer provided vehicles to be included in the compensation of the employee if the employee does not reimburse the employer. Forms are included for the employer to collect the necessary data from the employee and calculate the value of the personal use.

WORKSHEET TO CALCULATE “INCLUSION AMOUNT” FOR LEASED VEHICLES

The IRS requires lessees of luxury vehicles to calculate an “inclusion amount” to be included in their gross income. This inclusion amount must be considered by taxpayers that have leased a vehicle for a term of 30 days or more. By means of the inclusion amount, the law attempts to limit the taxpayer’s lease payment deductions to the amount that would have been deductible under the limited depreciation rules had the taxpayer purchased the vehicle. Enclosed are various worksheets to calculate the amount includible in income by the lessee. Select the appropriate worksheet based on the lease date of the vehicle.

SAMPLE AUTOMOBILE USAGE POLICIES

1. **POLICY PROHIBITING ALL PERSONAL USE OF COMPANY VEHICLES**

Management has adopted the following policy regarding personal use of Company-owned vehicles:

Vehicles owned or leased by this Company are to be used solely for Company business. There shall be no personal use of the vehicles (including commuting to and from work). Individuals driving Company vehicles may have occasions where an incidental stop is necessary between business stops. Such use shall not be considered to be in violation of this policy.

The Company requires that vehicles not in use shall be parked in designated areas on the Company premises. No personal items are to be stored in the vehicles. Company materials and supplies are to be secured in the trunk, lock boxes or within the Company offices.

Keys are to be returned to _____ upon the close of business each day.

SAMPLE AUTOMOBILE USAGE POLICIES

2. POLICY PROHIBITING ALL PERSONAL USE OF COMPANY VEHICLES EXCEPT COMMUTING

Management has adopted the following policy regarding personal use of Company-owned vehicles:

For business reasons, certain employees have been designated to drive a Company-owned vehicle to and from their residence. This shall be the only authorized personal use of the vehicle. Individuals driving Company vehicles may have occasions where an incidental stop is necessary between business stops. Such use shall not be considered to be in violation of this policy.

The Company requires that no personal items other than incidentals be stored in the vehicle. The vehicle is to be locked when not in use with work articles stored either in the lock box or trunk during times when the vehicle is not in use.

The Company will compute a daily value for the commuting which will be included in the employee's Form W-2 at the end of the calendar year. Such amount will be the minimum allowed by federal income tax laws.

Note: Internal Revenue Service regulations require the Company to maintain evidence which would enable the IRS to determine whether use of the vehicle is in accordance with policy maintained by the Company.

SAMPLE AUTOMOBILE USAGE POLICIES

3. POLICY REGARDING CUT-OFF DATE TO CALCULATE THE VALUE OF PERSONAL USE OF COMPANY-OWNED VEHICLES

Management has adopted the following policy regarding computation of the taxable value of the personal and commuting use of Company-owned vehicles:

The personal and commuting use of Company vehicles will be computed for the twelve months ending _____ (October 31, November 30 or December 31).

Annually, the Company requires you to provide a complete accounting of the personal use of the vehicle as of _____. The taxable value of the personal use will be computed using the least costly method allowable by tax law.

This income will be considered paid as of _____ and federal, state (if appropriate) and Social Security/Medicare* withholding will be deducted from your _____ paycheck.

OR

The taxable value and related withholding amounts will be reflected on your Form W-2 at year-end.

Please address your questions to _____.

* The company may elect to withhold only Social Security/Medicare. If so the paragraph should read as follows:

This income will be considered paid as of _____ and Social Security/Medicare withholding will be deducted from your _____ paycheck.

EMPLOYEE REPRESENTATION REGARDING
USE OF COMPANY VEHICLE

The IRS requires employers to provide certain information on their tax return with respect to the vehicles provided to employees. This information is also used to calculate the amount of the fringe benefit to be included in the employee's Form W-2 income.

The IRS generally requires that written records be maintained to document the business use of vehicles. Since the company policy requires employees to maintain the detailed records, please provide answers to the following questions. If you were provided more than one vehicle that was used during the year, you need to prepare a separate statement for each vehicle.

The completed form must be returned no later than _____ or 100% of the value of the use of the vehicle will be included in your Form W-2 income. (date)

Description of vehicle _____

Reporting period from _____ to _____

Odometer reading: Beginning _____ Ending _____

Employee Representation

- | | | |
|-----|--|--------|
| (1) | Was the vehicle available for your personal use during off-duty hours? | YES NO |
| (2) | Did you have another vehicle available for your personal use (this includes a vehicle you own personally)? | YES NO |
| (3) | Are you an officer or 1% or more owner of the business? | YES NO |
| (4) | How many commuting round trips did you make in this vehicle? | _____ |
| (5) | For the reporting period specified above, please provide the number of miles for each of the following categories: | |
| | Total commuting miles | _____ |
| | Total other personal (non-commuting) miles | _____ |
| | Total personal miles | _____ |
| | Total business miles | _____ |
| (6) | Did the employer pay the cost of fuel consumed by this vehicle? | YES NO |

(EMPLOYEE SIGNATURE)

(DATE)

WORKSHEET TO CALCULATE INCOME
FROM PERSONAL USE OF COMPANY VEHICLE

EMPLOYER'S WORKSHEET TO CALCULATE EMPLOYEE'S TAXABLE
 INCOME RESULTING FROM EMPLOYER-PROVIDED VEHICLE
 FOR CALENDAR YEAR 2005

EMPLOYEE: _____

DESCRIPTION OF VEHICLE: _____

DATE VEHICLE FIRST MADE AVAILABLE TO ANY EMPLOYEE: _____

DATE VEHICLE FIRST MADE AVAILABLE TO THIS EMPLOYEE: _____

Select one method (note limitations on methods II and III)

METHOD I - ANNUAL LEASE VALUE METHOD (For Vehicles Available 30 Days or More)

Fair market value of vehicle (to be redetermined at the beginning of the fifth year and every four years thereafter)		\$	_____
Annual lease value, per attached chart		\$	_____ ⁽¹⁾
Enter number of days during the year that the vehicle was available	x		_____
Divide by number of days in tax year	÷		_____
Prorated annual lease value	=		_____
Personal use % (personal/total miles, per statement from employee)	x		_____ %
Personal annual lease value	= \$		_____
If fuel is provided by employer, enter personal miles _____ x _____ ⁽²⁾	+		_____ +
Personal use taxable income	= \$		_____

⁽¹⁾For autos available for 7 days or less, multiply the annual lease value by 4. If the availability is more than 7 days, but less than 30, the taxpayer may elect to use the annual lease value without the 4 multiplier.

⁽²⁾If fuel is provided "in kind," the fair market value may be determined based on all facts and circumstances or, alternatively, at 5½ cents per mile if auto usage is within the U.S., Canada, and Mexico. Generally, where fuel is purchased and charged to the employer, the actual cost or reimbursement should be used. If employers with a fleet of 20 or more vehicles reimburse or allow employees to charge fuel cost, the fleet-average cents per mile may be used. If the fleet employer determines that actual cost or fleet average methods are unreasonable administrative burdens, the 5½ cents per mile may be used.

WORKSHEET TO CALCULATE INCOME
FROM PERSONAL USE OF COMPANY VEHICLE

EMPLOYER'S WORKSHEET TO CALCULATE EMPLOYEE'S TAXABLE
INCOME RESULTING FROM EMPLOYER-PROVIDED VEHICLE FOR
CALENDAR YEAR 2005

METHOD II - STANDARD MILEAGE RATE METHOD

Generally, in order to qualify to use the cents-per-mile method, the vehicle must: (1) be expected to be regularly used in the employer's business throughout the calendar year, or (2) be driven at least 10,000 miles per year, and (3) have a fair market value of \$14,800 or less. Once this method is adopted for a particular vehicle, it must be continued until the vehicle no longer qualifies.

Enter personal miles (1/1 – 8/31/05)	_____ x \$0.405=	\$ _____
Enter personal miles (9/1 – 12/31/05)	_____ x \$0.485=	\$ _____
If fuel is NOT provided by the Employer enter personal miles	_____ x \$0.055 =	(_____)
Personal use taxable income		\$ _____

METHOD III - SPECIAL COMMUTING METHOD

This method may only be used for vehicles covered by a written policy that allows commuting but no other personal use. DO NOT USE if employee is a 1% or more owner, an officer with compensation of \$85,000 or more, or an individual with compensation equaling or exceeding \$170,000.

Number of commuting round trips made	_____
Value per round trip	x _____ \$ 3.00
Personal use taxable income	\$ _____

WORKSHEET TO CALCULATE INCOME
FROM PERSONAL USE OF COMPANY VEHICLE

ANNUAL LEASE VALUE TABLE

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

For vehicles having a fair market value in excess of \$59,999, the Annual Lease Value is equal to:
(.25 x automobile fair market value) + \$500.

LEASED VEHICLES
WORKSHEET TO CALCULATE INCLUSION AMOUNT

Description of vehicle: _____

Date of lease: _____

Lease term: _____

Fair market value of vehicle at inception of lease: _____

Dollar amount per attached tables. (Select the appropriate table based on the inception date of the lease.) \$ _____⁽¹⁾

Enter number of days during the year that the vehicle was leased. x _____

Divide by number of days in tax year. ÷ _____

Prorated dollar amount. = \$ _____

Business use % (business/total miles). x _____%⁽²⁾

Prorated inclusion amount. = \$ _____

⁽¹⁾The dollar amount for the preceding year is used for the last tax year of the lease.

⁽²⁾Use 100% if all expenses are deducted by the employer and the personal use value is added to the employee's income.