West Virginia Division of Highways
Administrative Operating Procedures
Section III, Chapter 18

Section Title: PAYROLL/PERSONNEL

Chapter Title: TAXING FRINGE BENEFITS – VEHICLE USE

I. INTRODUCTION

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The Internal Revenue Service has regulations requiring the value of employer-provided vehicles used by state and local employees for commuting and personal use to be included in wages for Social Security purposes. The Service defines commuting, as “taking an employer provided vehicle to or from a work site and the employee’s residence.” The value of the use of the vehicle to be included in wages will be either the fair market value of the vehicle use, or one of the special valuation rules. Of the special valuation rules, the Commuting

Valuation Rule prescribes a flat rate of $3.00 a day if the following criteria are met.

- The public employer requires the employee to commute in the state owned or leased vehicle for bona fide **non-compensatory** business reasons. Examples of acceptable reasons include, lack of space to store the vehicle, the expectation that the employee will respond to emergency calls from his/her residence, security reasons, etc.

- The vehicle is used in the public employer's business and except for de minimis use, (such as a stop or a personal errand on the way between a business delivery and the employee's home) the employee does not use the vehicle for any personal purpose other than commuting.

The Commuting Valuation Rule also requires the employer to have a written policy that prohibits the personal use of the employer owned vehicles except for commuting and de minimis personal use. Highways' policy, regarding approved state vehicle use for transportation to an employee's domicile, clearly reflects that such use is intended for business purposes including improved response to emergencies. Further, that policy clearly prohibits personal use of state vehicles. (See Section IV, Chapter 2 of the DOH Administrative Operating Procedures.) Under these conditions, a flat rate of $3.00/day for commuting can be used to develop the additional compensation for employees' use of vehicles.

To facilitate compliance with the IRS regulations, notification of employee commuting use of employer provided vehicles must be forwarded to Finance Division. This notification will be the basis for the Finance Division's recording of additional taxable compensation and related social security taxes to the employee's earnings record.

There are two types of vehicle usage that must be reported for taxation purposes. First, employees who have an individually assigned vehicle that is regularly used for commuting, and second, employees who occasionally use Highways' vehicles for commuting purposes.

II. REPORTING REQUIREMENTS – INDIVIDUALLY ASSIGNED VEHICLES

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Employees who regularly commute with their individually assigned vehicle will report their taxable fringe benefit on Form BF-129, Payroll Transaction Form, Remarks Section with effective date entered. Form BF-129 will be used to record deletions or other changes as required by the circumstances of operations. The routing of the various parts and timely submission schedules of Form BF-129, as prescribed by Finance Division, are not changed by this procedure. A sample BF-129 and related instructions for completion are shown in Volume VII of the DOT Administrative Procedures.

The additional monthly income and social security tax effect of an individually assigned vehicle used daily for commuting is $53.00 and $4.05 respectively. The details of this development are shown in Appendix B at the end of this chapter.

III. REPORTING REQUIREMENTS – Occasional Commuting – State Vehicles

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Employees who commute occasionally from the job site to their domicile using employer provided vehicles must report the days of state car use for that purpose. Form BF-155 (displayed in Section VI of this volume) must be used to report such use to Finance Division. Timely reporting to the IRS of wages, related taxes withheld, and employer's contribution to social security requires completion of Form BF-155 on a three-month basis. This schedule has been incorporated on Form BF-155.

IV. CAR POOLING

When more than one employee commutes in an employer provided vehicle, each is subjected to these regulations. The amount to be added to the income of each employee is $1.50 for each one-way commute. Form BF-155 will be used to report such use to Finance Division.

V. EXEMPT VEHICLES

These regulations have exempted certain qualifying types of vehicles from consideration as wages derived from working condition fringe benefits. Among the exclusions are clearly marked police and fire vehicles. A complete listing of qualifying exclusions is furnished as Exhibit I.

VI. COMMUTING CRITERIA

The criteria for establishing "commuting" limitation of taxable benefit are shown as Appendix A. Implementation of this procedure does not increase established maximums of Social Security Taxes for employees or employers.

VII. EXHIBIT – Vehicles Qualifying for Exclusion

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An employee's gross income will not be increased for any use of the following vehicles:

- Clearly marked police and fire vehicles, *
- Unmarked vehicles used by law enforcement officers if the use is officially authorized, *
- Ambulances used as such,
- Hearses used as such,
- Any vehicle that is designated to carry cargo with a loaded gross vehicle weight over 14,000 pounds,
- Delivery trucks with seating for the driver only, or for the driver plus a folding jump seat, *
- Passenger buses used as such with a capacity of at least 20 passengers,
- School buses, and
- Tractors and other special purpose farm vehicles.

*Additionally, the U.S. Department of Treasury, Internal Revenue Service, Publication 917, Pages 9-10 provides the following definitions for exempt vehicles:

<u>Clearly marked police or fire vehicles</u> – A police or fire vehicles is a vehicle owned or leased by a governmental unit (or any of its agencies or instrumentalities) that is required to be used for commuting by a police officer or fire fighter who is on call at all times. Any personal use (other than commuting) of the vehicle outside the limit of the police officer's arrest powers of the fire fighter's obligation to respond to an emergency must be prohibited by such governmental unit. A police or fire vehicle is clearly marked if, through a painted symbol or words, it is easy to see that the vehicle is a police or fire vehicle. A marking on a license plate is **not** a clear marking for this purpose.

<u>Unmarked law enforcement vehicles</u> – Any personal use of an unmarked law enforcement vehicle must be authorized by the federal, state, county, or local governmental agency or department that owns or leases the vehicle and employs the officer. The personal use must be necessary to help enforce the law, such as being able to report directly from home to a stakeout site or to an emergency. Use of an unmarked vehicle for vacation or recreation trips cannot qualify as an authorized use.

<u>Law enforcement officer</u> – A law enforcement officer is a person who is employed on a full-time basis by a governmental unit that is responsible for preventing or investigating crimes involving injury to persons or property (including catching or detaining persons for such crimes), who is allowed by law to carry firearms to execute search warrants, and to make arrests (other than merely a citizen's arrest), and who regularly carries firearms (except when working undercover). It may include an arson investigator if the investigator otherwise meets these requirements.

<u>Trucks and vans</u> – A pickup truck or van is not considered a qualified non-personal use vehicle unless it has been specially modified with the result that it is not likely to be used more than minimally for personal purposes. The following are guidelines that a pickup truck or van can meet to be a qualified non-personal use vehicle. Even if these guidelines are not met, the vehicle may still qualify, based upon the facts. In such a case, contact your local IRS director for further guidance.

<u>Pickup truck</u> – A pickup truck with a loaded gross vehicle weight not over 14,000 pounds will qualify if it is clearly marked with permanently affixed decals or with special painting or other advertising associated with the employer's trade, business, or function and is either:

1. Equipped with at least one of the following: a hydraulic lift gate, permanently installed tanks or drums, permanently installed side boards or panels that materially raise the level of the sides of the truck bed, or other heavy equipment (such as an electric generator, welder, boom, or crane used to tow automobiles and other vehicles), or

2. Actually used primarily for transporting a particular type of load (other than over the public highways) in connection with a construction, manufacturing, processing, farming, mining, drilling, timbering, or other similar operation for which it has been specially designed or modified to a significant degree.

Van – A van with a loaded gross vehicle weight not over 14,000 pounds will qualify if it is clearly marked with permanently affixed decals or with special painting or other advertising associated with the employer's trade, business, or function, and has a seat for the driver only or the driver and one other person, and either:

1. Permanent shelving has been installed that fills most of the cargo area, or

2. The cargo area is open and the van constantly (during both working and non-working hours) carries merchandise, material, or equipment used in the employer's trade business, or function.

VIII. APPENDIX A – Commuting Criteria

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If all of the following requirements are met, the value to include in the employees' income would be $3.00 per day for a round trip or $1.50 for each one-way use. Therefore, a record should be kept of the number of days an employee uses a State vehicle for commuting. If more than one employee commutes in the vehicle, as in an employer sponsored car pool, the amount to be added to each employee's income is $1.50 for each one-way commute.

- The vehicle must be owned or leased by the State and must be used for State business by one or more employees.

- The employer requires the employee to commute to and/or from work in the vehicle for bona fide **non-compensatory** business reasons.

- The employer must have a written policy that prohibits the employee to use the vehicle for personal purposes other than for commuting or minimal personal use (such as a stop for a personal errand on the way between a business delivery and the employee's home).

- Except for minimal personal use, the employee does not use the vehicle for any personal purpose other than commuting.

Also, there must be evidence that would enable the Internal Revenue Service to determine whether the use of the vehicle meets the above requirements.

Computation: The value to be included in the employee's income would be $3.00 multiplied by the number of commuting days, minus the amount, if any, paid by the employee to use a State vehicle.

IX. APPENDIX B – Development of Additional Income and Social Security Taxes

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If an employee is assigned a state vehicle and approved to use it to commute on a regular basis the amount of personal usage, fringe benefit compensation, and Social Security Tax can be determined as follows:

Number of Working Days in a year	261
Average number of unproductive days per year for holidays, annual leave, and sick leave	49
Number of productive days	212
Fringe Benefit per day	$3.00
Total yearly fringe benefit	$636.00
Total monthly fringe benefit	$53.00
Combined Social Security & Medicare Tax Rate 1991	7.65%
Social Security Tax per month	$4.05

Should an employee select this method of reporting, $4.05 per month additional FICA tax will be withheld from their paycheck until the limiting amount is reached.