

Department of Fish and Game

DEPARTMENTAL BULLETIN

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To: All Employees
FGOM Holders

Subject: Personal Use of State-Owned or Leased Vehicles
Human Resources Branch (HRB) (916) 653-8120, CALNET 8-453-8120

State-owned or leased vehicles are provided to conduct official State business. Use of a State vehicle incidental to State business for personal reasons may constitute taxable income and be subject to Federal/State income taxes and applicable Social Security/Medicare taxes. Under Internal Revenue Code (IRC) Section 61(a), any fringe benefit provided to an employee in connection with the performance of service is considered income, unless a specific exclusion applies.

Although State-owned or leased vehicles are not to be used for personal business¹, incidental use is sometimes unavoidable. Misuse of a State vehicle occurs when it is driven or used other than in the conduct of State business, which includes carrying any persons not directly involved with official State business.

The most common taxable use occurs when an employee uses a State vehicle more than once per month to "commute" between home and his/her regular place of work (per IRS definition of a "fringe benefit"). Please note that possession of a Home Storage Permit does not automatically exempt employees unless a specific exclusion applies as explained below.

There are three exclusions to the taxability of personal use of a State-owned or leased vehicle:

- 1) De Minimis Fringe Benefit
- 2) Working Condition Fringe Benefit
- 3) Employee's Home/Headquarters

De Minimis Fringe Benefit

If an employee uses a State vehicle to commute between home and his/her regular place of work no more than once a month, its value is exempt from gross income (no reporting requirement). This does not mean that an employee can receive excludable reimbursement for commuting 12 days a year.

¹ California Government Code Section 8314 and California Code of Regulations, Title 2, Section 599.802

The general definition of a normal commute is from home to headquarters/work office (Office) and Office to home. However, if a person whose home has not been designated his/her headquarters, routinely leaves from home to work at multiple sites, this is not a commute for tax purposes. If an employee leaves home to conduct business at a destination other than Office and the worksite is not on the way to the Office, that is not a commute for tax purposes. However, if the worksite is on the way to the Office, that is a commute for tax purposes.

If areas have no secure parking at the work site and have a history of vehicle vandalism, State vehicles are taken home overnight for security purposes. Please note that these trips home and to the office the next day are commutes for tax purposes. An employee who uses a State vehicle to go into the office on a day off is also conducting a commute for tax purposes, regardless of whether it is required by the Department. However, if this were an unusual situation for the employee, generally occurring no more than once a month, the commute could be considered a nontaxable de minimis fringe benefit.

Working Condition Fringe Benefit

The value of using a specialized State-owned or leased vehicle is excluded from gross income if designated as a "qualified nonpersonal use vehicle" (any vehicle not likely to be used more than minimally for personal purposes because of the way it is designed). Included in this provision are:

- clearly marked police and fire vehicles
- vehicles designed to carry cargo over 14,000 pounds
- school buses
- unmarked vehicles used by law enforcement officers, if the vehicle use is officially authorized

Please note that the personal use of a clearly marked police vehicle when the officer is not on a regular shift or on-call at all times, is limited to the police officer's arrest powers and/or obligation to respond to an emergency. For the vehicle use to be exempt from gross income, it must also be incidental to law-enforcement functions, such as reporting directly from home to a stakeout or surveillance site.

Employee's Home/Headquarters

To exclude the use of a State-owned or leased vehicle from taxable income for an employee whose home has been designated as his/her headquarters, all the following conditions must be met:

1. The employer must designate the employee's home as his/her headquarters. The Department of Personnel Administration (DPA) requires that a Headquarters be established for each State officer and employee and is defined as the place where the officer or employee spends the largest portion of his/her regular workdays or working time or the place to which he/she returns upon completion of special assignments.

2. The employee's home/headquarters must meet the conditions of IRC 280A(c) as the employee's "principal place of business", defined as a place of business where the employee conducts substantial administrative activities² of such business. To qualify, the employee must perform his/her primary administrative activities at home. Administrative activities are defined as those activities not performed in the field but in an office setting.
3. The designation of the home/headquarters as the "principal place of business" must be for the convenience of the employer versus the convenience of the employee. This means that the employer has a substantial non-compensatory business reason for requiring this designation.
4. The employee must be able to demonstrate that the home/headquarters assignment qualifies as a legitimate tax deduction.
5. To qualify vehicle use as nontaxable, the employee must substantiate that the vehicle is not used for personal purposes and answer certain questions about the use of the vehicle mileage (total business, commuting, and other personal mileage), percentage of business use, dates placed in service, use of other vehicles, after work use, and whether the employee has evidence to support the business use claimed). The IRS states a trip-log showing all use, not just the first and last trip of the day, may provide the necessary substantiation.
6. The work locations where the employee routinely travels cannot be a single location.

To determine if the value of personal use of a State-owned or leased vehicle is nontaxable income, each employee with a home/headquarters designation must complete the Employee's Designated Headquarters Form, FG-PERS-299 (New 5/09) (copy attached), and submit it to his/her immediate supervisor for approval. Once approved, the original form is placed in the employee's official personnel file for IRS auditing purposes. In order for the value of the personal use of a State-owned or leased vehicle to qualify as nontaxable income, the employee must respond "Yes" to all of the questions on page two of this form and be able to substantiate each response.

If all the conditions listed above (items 1 through 6) are not met, the personal use of a State-owned or leased vehicle is considered a "fringe benefit" and constitutes taxable income.

Special Value Rules

Requirements for reporting the personal use of State-owned or leased vehicles are

² Such activities include, but are not limited to, preparing reports, completing time sheets/travel expense claims, returning telephone calls, preparing correspondence (either hard copy or e-mail), evaluating and making recommendations on Fish and Game Regulations, reviewing research material, providing consultation to regional staff, other State agencies, and/or members of the public, and developing and maintaining a library of technical and informational documents pertaining to wildlife restoration and protection.

adjusted annually by the IRS. In accordance with IRS guidelines, the following Special Valuation Rule will be used by the Department of Fish and Game:

Commuting Valuation Rule - Under this rule, the value of personal use is \$1.50 per one-way commute and \$3.00 per round trip. This rule cannot be used by a "control employee." A control employee is any elected official or an employee whose compensation equals or exceeds \$143,500.00 annually.

NOTE: For further information of the special valuation rules and values for determining personal use of a State vehicle, IRS Publications #535, Business Expenses, and #917, Business Use of a Car, are available by calling 1-800-829-3676.

Reporting Requirements

Employees earning a "fringe benefit" from the personal use of a State-owned or leased vehicles (as defined by IRS regulations) are required to complete and submit the Personal Use of State-Owned Vehicle Monthly Certification Form, FG-PERS-299 (Rev. 9/08) (copy attached), to the Regional Personnel Office or to HRB for processing by the fifth of each month.

Personnel Specialists will complete the Non-USPS Adjustment Request - Value Form, STD. 676V, and submit it to the State Controller's Office for processing the tax adjustments for the personal use of State-owned vehicles.

The tax withholding adjustment will be identified on the employee's Earnings Statement or Direct Deposit Advice as additional taxes (included with any additional taxes already taken).

If you have any questions or need additional information, please contact your Personnel Specialist.

Helen Carriker
Deputy Director, Administration

Attachments:

1. [Employee's Designated Headquarters Form \(FG-HRB-202\)](#)
2. [Personal Use of State-Owned Vehicle Monthly Certification Form \(FG-HRB-299\)](#)