

Update on Law Enforcement Vehicles

If you have been to an employment tax training that has been conducted by our office (the Division of Local Government Services) or in cooperation with the IRS in the last 7 years, you have heard us or the IRS indicate that law enforcement vehicles driven out of the jurisdiction (e.g. out of the county) had a taxable fringe benefit. Recent discussions with the IRS has indicated a change in that thinking. At this time, there is not a taxable fringe benefit for law enforcement vehicles driven out of the county as long as 1) it is for commute only and 2) the employer must prohibit personal use (other than commuting) for travel outside the officer's jurisdiction. Please read below.

Qualified Nonpersonal Use Vehicle

A qualified nonpersonal use vehicle is any vehicle that the employee is not likely to use more than minimally for personal purposes because of its design. Qualified nonpersonal use vehicles generally include all of the following vehicles.

- Clearly marked police and fire vehicles*
- Unmarked vehicles used by law enforcement officers if the use is officially authorized*
- Qualified specialized utility repair truck*
- An ambulance or hearse used for its specific purpose
- Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds
- Delivery trucks with seating for the driver only, or the driver plus a folding jump seat
- A passenger bus with a capacity of at least 20 passengers used for its specific purpose

EMPLOYER-PROVIDED VEHICLES

- Construction or specially designed work vehicles, (i.e., bucket trucks, dump trucks, cement mixers, forklifts, garbage trucks)
- School buses
- Tractors, combines and other special-purpose farm vehicles. *Reg. § 1.274-(k)(2)*

* These vehicles are discussed in greater detail below.

Clearly Marked Police or Fire Vehicles

A clearly marked police or fire vehicle qualifies only if the following apply:

- Employee must always be on call.
- Employee must be required by the employer to use the vehicle for commuting.
- Employer must prohibit personal use (other than commuting) for travel outside of the officer or firefighter's jurisdiction. *Reg. § 1.274-5T(k)(3)*

Note: Marking on a license plate is NOT considered a 'clear mark'

TEMP-REG, TAX-REGS , §1.274-5T. Substantiation requirements (temporary)

(3) *Clearly marked police or fire vehicles.* A police or fire vehicle is a vehicle, owned or leased by a governmental unit, or any agency or instrumentality thereof, that is required to be used for commuting by a police officer or fire fighter who, when not on a regular shift, is on call at all times, provided that any personal use (other than commuting) of the vehicle outside the limit of the police officer's arrest powers or the fire fighter's obligation to respond to an emergency is prohibited by such governmental unit. A police or fire vehicle is clearly marked if, through painted insignia or words, it is readily apparent that the vehicle is a police or fire vehicle. A marking on a license plate is not a clear marking for purposes of this paragraph (k).

Unmarked Law Enforcement Vehicles

Unmarked law enforcement vehicles are qualified non personal use vehicles only if the following apply:

- The employer must officially authorize personal use
- Personal use must be incident to use for law-enforcement purposes; i.e., no vacation use.
- The employer must be a governmental unit responsible for prevention or investigation of crime.

The vehicle must be used by a full-time *law enforcement* officer; i.e. officer authorized to carry firearms, execute warrants, and make arrests. The officer must regularly carry firearms, except when it is not possible to do so because of the requirements of undercover work. *Reg. § 1.274-5T(k)(6)*

If you have any questions, please feel free to contact our office at 502-564-3952 or James Driver at james.driver@ky.gov