Department of Transportation
Guidelines for Personal Use of State Vehicles (PUSV)
Tax Reporting Requirements
August 2008

References: Payroll Procedures Manual Section N129.1 – N129.1.6.
IRS Regulations 1.61-21 (d) (e), 1.132-6(e)(2), 1.274-5T(k)(2)
IRS Publications 15-B, 463, 525, 535, 587
Applicable Taxes: FIT, SIT, SS/Medicare, SDI

GENERAL INFORMATION

The value of all **personal use** of State-owned or leased vehicles (PUSV), unless noted in PPM Section N129 1.3 (below), is taxable income and must be reported on a monthly basis to the State Controller's Office (SCO) using Special Valuation Rules.

Personal use is defined as:

- Miscellaneous non-business trips, daily work commutes, etc. Commutes include trips from home to headquarters/regular office and headquarters/regular office to home. If an employee routinely works at the same multiple sites, the commute to each of those sites and back home again is also a personal commute.

Department of Transportation (Department) has adopted the "Commuting Valuation Rule". Additionally, the *General Valuation Principle may be chosen by an **employee** in lieu of the Commuting Valuation Rule. The reportable/taxable amount is the amount an unrelated third party would charge a person to lease the same or comparable vehicle on the same or comparable terms. ***This option typically results in a higher reportable/taxable value.**

NOTE: The options listed below are discussed in Internal Revenue Service (IRS) Publications 525, Taxable and Nontaxable Income and 15-B, Employer's Tax Guide to Fringe Benefits. These publications are available from local IRS offices, requested by calling toll free at 1-800-829-3676 or via IRS' website: (www.irs.gov).

The IRS considers the nature of the vehicle, nature of the employer's need to use qualified non-personal use vehicles and other factors (such as frequency of personal use) to determine "facts and circumstances". These combined factors must be applied by the supervisor on a case-by-case basis to determine taxable personal use and if tax exemptions apply.

Commuting Valuation Rule

The Department has adopted the "Commuting Valuation Rule". Under this Rule, the reportable/taxable value is $1.50 per one-way commute or $3.00 per round trip if:

- Vehicle is owned or leased by employer

• Vehicle is provided to employee for business use
• Employer requires employee to commute in vehicle for valid non-compensatory business reasons*
• Employer has written policy prohibiting personal use other than commuting
• Employee does not use vehicle for personal use

*** Key Concepts: The employer must require the employee to use the vehicle for a business purpose; it cannot be voluntary on the employee's part.**
Note: This rule cannot be used if the employee is a Control Employee. A Public Sector Control Employee is:

- an elected official, or
- an employee whose compensation equals or exceeds a federal employee compensated at Executive Level 5. The following compensation Executive 5 levels were established:

2008 $139,600
2007 $136,200
2006 $133,900

Control Employees as noted above should use the General Valuation Rule. Contact the Travel Policy Section for instructions at (916) 227-8652.

EXCEPTIONS TO REPORTING AND TAXATION
Reference PPM 129.1.3

There are exceptions to PUSV being taxable:

- De Minimis Fringe Benefit; and
- Qualified Non Personal Use Vehicle; and
- Working Condition Fringe Benefit

De Minimis Fringe Benefit – IRS Regulation 1.132-6(d)(3)

If an employee commutes in a State-owned or leased vehicle **no more than once a month**, the value is exempt from gross income. The regulation is available to cover infrequent, irregular situations. The regulation does not automatically provide for 12 free commutes in a calendar year. <u>A commute is defined as a round-trip from home to office or office to home and return and/or any two one-way trips from home to office or office to home.</u>

Qualified Non-Personal Use Vehicle – IRS Regulation 1.274-5T(k)(2)

The value of a "qualified non-personal use vehicle" is excluded from gross income. To qualify, the following conditions must be satisfied and documented by actual "facts and circumstances".

A qualified non-personal use vehicle is any vehicle that is not likely to be used more than minimally for personal purposes because of the way it is designed.

Examples of Qualified Non-Personal Use Vehicles:

• Clearly marked police and fire vehicles* (as defined and to the extent provided in paragraph (k)(3) of the IRS Regulation),

• Ambulances used as such or hearses used as such,

• Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds,

• Bucket trucks ("cherry pickers"),

• Cement mixers,

• Combines,

• Cranes and derricks,

• Delivery trucks with seating only for the driver, or only for the driver plus a folding jump seat (as defined in paragraph (k)(7) of the IRS Regulation),

• Dump trucks (including garbage trucks),

• Flatbed trucks,

• Forklifts,

• Passenger buses used as such with a capacity of at least 20 passengers,

• Refrigerated trucks,

• Qualified moving vans (as defined in paragraph (k)(4) of the IRS Regulation),

• Qualified Specialized Utility Repair Truck: Truck (not a van or pickup truck) is specifically designed/used to carry heavy tools, testing equipment or parts and shelves, racks or permanent interior construction were installed to carry/store such items and as a result, it is unlikely the vehicle would be used for personal commutes. The employer requires the employee to drive the truck home to respond to emergency situations for purposes of restoring or maintaining electricity, gas, telephone, water sewer of steam utility services.

• Specially Modified Trucks and Vans: Truck or van must be specifically modified wherein the result precludes personal use except on a de minimus basis. A pickup truck with a loaded gross vehicle weight under 14,000 pounds is a qualified non-personal use vehicle if it falls into **one** of the following categories:

1. The vehicle is clearly marked with permanently affixed decals or special painting or other advertising associated with the employer’s trade, business or function and is equipped with at least **one** of the following: a hydraulic lift gate, permanently installed tanks or drums, permanently installed side boards or panels materially raising the level of the sides of the bed of the pickup truck or other heavy equipment, such as an electric generator, welder, boom or crane used to tow automobiles and other vehicles.

2. The vehicle is clearly marked with permanently affixed decals or special painting or other advertising associated with the employer’s trade, business or function, is actually used primarily for transporting a particular type of load other than over the public highway in connection with a construction, manufacturing, processing, farming, mining, drilling, timbering or other similar operations, **and** was specially designed or modified to a significant degree for such use.

A van with a loaded gross vehicle weight under 14,000 pounds is a qualified non-personal use vehicle **if**:

• It is clearly marked with permanently affixed decals or special painting or other advertising associated with the employer’s trade, business, or function, it has a seat only for the driver or the driver and one other person, and either permanent shelving was installed that fills most of the cargo area.

Or

• 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.

Facts and Circumstances

IRS considers the nature of the vehicle, nature of the employer's need to use qualified non-personal use vehicles and other requirements as those noted above. These combined factors represent "facts and circumstances" that must be applied on a case-by-case basis to determine whether or not vehicle use is/is not tax-free.

Working Condition Fringe Benefit (Employee's Home/Headquarters)

For the value of the personal use of a State-owned or leased vehicle to be excluded from income for an employee whose home is designated as his/her headquarters, **the following criteria must be met by the department and employee:**

1. The employer must designate the employee's home as his/her headquarters (please refer to DPA rules 599.616 and 599.616.1).

2. The employee's home/headquarters must meet the conditions of IRC Section 280A(c) as the employee's "principal place of business." The term **"**principal place of business" is defined as a place of business of the employee if there is no other fixed location of such business where the employee conducts substantial administrative activities of such business. To qualify, the employee must perform his/her primary administrative activities at home, as opposed to at home and another location.

   Administrative activities are defined as those activities that are not performed in the field but are conducted in an office setting. Such activities include, but are not limited to, preparing reports; completing time sheets/travel expense claims; returning phone calls; preparing correspondence (either hard copy or e-mail); evaluating and making recommendations regarding departmental regulations; reviewing research material; providing consultation to agency staff, other State agencies, and/or members of the public; and developing and maintaining a library of technical and informational documents pertaining to the agency's mission and/or employee's assigned responsibilities.

   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. The convenience of the employer means that the employer has a substantial non-compensatory business reason that requires this designation.

   4. The employee must demonstrate that the home/headquarters assignment qualifies as a legitimate tax deduction. Refer to IRS Publications including #587 – Business Use of your Home.

   5. The employer and employee must document, as defined **ALL VEHICLE USE**. The information required includes: mileage (total business, commuting, and use of other personal mileage), percentage of business use, dates placed in service, use of other vehicles, after work use, and maintain evidence to support the business use claimed. The IRS requires that the information must include all use, not just the first and last trip of the day.

   6. The work locations that an employee routinely travels to daily cannot be a single work location. If the employee reports to different locations at the beginning of each workday versus the same locations routinely, this condition is

met. For example, if the employee leaves his/her home/headquarters and routinely goes to the same work location each day, the IRS states this use is a taxable commute.

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.

Form PM-0041 – Personal Use of State Vehicles – Reporting Roles and Responsibilities

Employees are required to complete and submit Form PM-0041, Personal Use of State Vehicles, for personal use of all State-owned or leased vehicles (including daily rental cars) on miscellaneous non-business trips, daily work commutes etc., to their supervisor <u>by the last working day of each month.</u> Form PM-0041 can be obtained on the Caltrans' Electronic Form System web-site located at **http://adsc.caltrans.ca.gov/CEFS/**

Supervisors are responsible for signing and ensuring that Form PM-0041 is completed accurately and signed by the employee. Form PM-0041 must be faxed to (916) 227-9357 or CALNET 8-498-9357, or forwarded to the Travel Policy Section, MS-25, <u>by the 3rd business day of the subsequent month.</u>

<u>Example</u>**:** An employee completes and submits Form PM-0041 by July 31, 2008.
The supervisor must review and fax, or mail the form to the Travel Policy Section by August 5, 2008.

Division of Accounting -Travel Policy Section is responsible for transcribing information from Form PM-0041 to the Standard Form 676V, Non-USPS Adjustment Request – Values. Travel Policy submits to the State Controller's Office, W-2 Unit no later than the 10th day of the subsequent month.