CIRCULAR

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY

NO.: 17-04-OMB	ORIGINATING AGENCY: OFFICE OF MANAGEMENT AND BUDGET	PAGE 1 OF 4
EFFECTIVE DATE: 01-01-16	EXPIRATION DATE: 12-31-16	SUPERSEDES: 16-08-OMB
SUBJECT: TAXABILITY OF THE PERSONAL USE OF STATE PROVIDED VEHICLES AND DRIVER SERVICES		
ATTENTION: DIRECTORS OF ADMINISTRATION		
FOR INFORMATION CONTACT: ANNE DUNGEE		PHONE: (609) 292-7748

This Circular makes one substantive change to 16-08-OMB. In Section IV, Item A (The Lease Valuation Rule); the annual salary threshold used to identify a "Control Employee" has been increased from $148,700 to $150,200. Dates have also been changed to reflect Calendar Year 2016. The Internal Revenue Service Code states that the personal use of an employer-provided vehicle and/or use of driver services is taxable to the employee as a non-cash fringe benefit. "Personal use" includes commuting to and from work as well as personal travel. **The policies and procedures outlined in this Circular apply only to Departments and Agencies paid through Centralized Payroll.**

I. FRINGE BENEFIT DETERMINATION

The state-wide vehicle policies outlined in Circular 12-11-ADM "State Vehicular Assignment and Use Policy" allow for the valuation of personal use of state provided vehicles to be calculated using either the commutation valuation rule or the lease valuation rule. The Director of Administration for each department is responsible for establishing a system for tracking the use of state vehicles within their department, and for reporting the personal use information to Centralized Payroll by the cut-off dates specified in paragraphs D.1.d. and D.2.d. In addition, the Directors of Administration are responsible for notifying the affected employees, within 30 days of providing them with the use of a state provided vehicle, of the valuation method to be used to calculate their vehicle fringe benefit.

II. QUALIFIED NON-PERSONAL USE VEHICLES

The following types of vehicles are exempted from fringe benefit consideration. That is, their use is deemed to be exclusively for business purposes:

A. Clearly marked police, fire, and rescue vehicles;
B. Unmarked law enforcement vehicles when used by full-time officers authorized to carry firearms, execute search warrants, and make arrests;
C. Delivery trucks with seating only for the driver, or only for the driver plus a folding jump seat;
D. Cargo carriers with greater than a 14,000 pound capacity;
E. School and passenger buses with greater than a 20-person capacity;
F. Flatbed trucks, bucket trucks, cranes and derricks, fork-lifts, cement mixers, dump trucks, garbage trucks, specialized utility repair trucks, farm tractors, and other special purpose farm vehicles;
G. Certain clearly marked or specially modified pick-up trucks and vans as defined in the I.R.S. Code.

III. ANNUAL REPORTING PERIOD

In order for Centralized Payroll to process the information necessary to compute the vehicle fringe benefit for employees by the established I.R.S. deadline, the reporting time period for calendar year 2016 will be from November 1, 2015 through October 31, 2016.

IV. CALCULATION OF VEHICLE FRINGE BENEFIT

A. The Lease Valuation Rule

This method will be used to calculate the vehicle fringe benefit for all "Control Employees." A governmental "Control Employee" is defined as an elected official or an employee whose compensation equals or exceeds $150,200 per year. For purposes of identifying "Control Employees," compensation will be defined as an employee's annual pay rate as of October 30, 2016. Additionally, if an employee is not a "Control Employee" but is provided a driver for his/her vehicle, the lease valuation method must be used to determine his or her fringe benefit.

1. To obtain the "Annual Lease Value" to be reported for an individual regarding a vehicular assignment, contact the transportation official listed below:

For all State departments except Military and Veterans Affairs, Law and Public Safety and Transportation:

Mr. George Krumenacker
Transportation Services
605 South Broad Street - PO Box 233
Trenton, New Jersey 08625
Phone No. (609) 292-0734

Department of Military and Veterans Affairs:

Mr. Robert J. Greco
Manager of Records and Programs
Eggerts Crossing Road - PO Box 340
Trenton, New Jersey 08625
Phone No. (609) 530-6866

Mr. Mark Preston
Principal Staff Officer 2
Eggerts Crossing Road - PO Box 340
Trenton, New Jersey 08625
Phone No. (609) 530-6898

Department of Law and Public Safety:

Mr. Peter Leland
Vehicle Coordinator
Richard Hughes Justice Complex, 3rd Floor
25 Market Street-PO Box 081
Trenton, NJ 08625
Phone No. 609-777-2307

Mr. Patrick Cannon
Vehicle Coordinator
Richard Hughes Justice Complex, 3rd Floor
25 Market Street-PO Box 081
Trenton, NJ 08625
Phone No. 609-633-0142

Department of Transportation:

Ms. Debby Hatzisavvas
Director, Support Services
Main Office Building, 1st Floor
1035 Parkway Avenue - PO Box 600
Trenton, New Jersey 08625
Phone No. (609) 530-2029

2. In addition to the Annual Lease Value provided by the transportation officer listed above, the value of the services provided by a driver must also be included in determining the total taxable fringe benefit. For this purpose, the value of a driver's services will be defined as the compensation (salary) paid to the driver. The driver's compensation (salary paid) shall be reduced by (1) the total business driving value (2) and shall be reduced proportionately to reflect the amount of time during which the driver performs substantial services for the employer other than as a driver and (3) is not on call as a driver. This will result in the personal use portion of a driver's service.

   Be sure to read the attached Treasury Regulations 1.61-21(b) (5) to accurately calculate the proper amount of compensation for personal use of the driver services.

3. Reduce the "Annual Lease Value" by the business use portion of a state provided vehicle and then add the personal use portion of driver's compensation to arrive at the "Total Personal Annual Lease Value." The employee must be advised to carefully maintain an accurate account of the business and personal use portion of a state provided vehicle and driver services on the Fringe Benefit Analysis Sheet.

4. Once the "Total Personal Annual Lease Value" is computed, for all affected employees in their department, the Director of Administration will complete Form# CP AUTO II and submit it to Centralized Payroll by **December 2, 2016**.

B. The Commutation Valuation Rule

The commutation valuation rule will be used to determine the fringe benefit relating to state provided vehicles for all "Non-Control" employees. Employees should keep a record of the commutation use of a state provided vehicle.

NOTE: If a vehicle is provided a driver, this rule may not be used to value the commuting use for any person, other than for the driver, who rides in the vehicle.

1. The value of the commutation use of a state provided vehicle is $1.50 per one-way commutation. Commutation is defined as direct travel from an employee's residence to and from an official work station. For the days when an employee is on sick leave, vacation, or personal leave, no commutation use is incurred.

2. A trip between an employee's residence and a "temporary" work location, when the employee has a regular work location, is NOT commuting. For more information regarding the definition of a "temporary work location", refer to I.R.S. Revenue Ruling 99-7 at http://www.irs.gov/pub/irs-drop/rr-99-7.pdf.

3. If more than one employee commutes in a state provided vehicle, as is the case of an employer-sponsored car pool, the amount includible in the income of each employee is $1.50 per one-way commutation.

4. For all employees affected by the commutation valuation rule in their department, the Director of Administration will complete Form# CP AUTO I, identifying employees and indicating the total number of one-way commutations, and submit it to Centralized Payroll by **November 21, 2016.**

   ** Submission of an alternate electronically generated form is allowable, provided it contains all the required information in the proper sequential order. Since social security number is required, any forms submitted via email **must be password protected**.
   ** Please complete Form# CP AUTO I in numerical sequence by social security number.
   ** Also, please provide a total number of commutations.

C. **Contractual Commutation Mileage Payments**

1. Compensation received by employees, represented by certain negotiating units, for travel in their personal vehicle to and from their place of assignment and permanent place of residence in excess of 20 highway miles each way is taxable. Please refer to Circular 99-08-OMB "Commutation Mileage Payments Accounting and Taxability" for additional information.

2. Centralized Payroll will obtain amounts paid pursuant to these contracts from the New Jersey Comprehensive Financial System. No agency input is required.

V. CENTRALIZED PAYROLL

A. The taxable vehicle fringe benefit amount will be included in the gross wages on regular Pay Period 26, 2016, and displayed in the box entitled "Taxable Benefits" on the check/direct deposit pay stub and on the W-2 Forms of the affected employees for 2016.
B. F.I.C.A. and Medicare contributions, if required, will be withheld for affected employees on Pay Period 26, 2016.
C. The state, as an employer, will remit the F.I.C.A. and Medicare taxes withheld along with the employer contribution.
D. There will be no state or federal income tax withheld; however, the vehicle fringe benefit amount will be included in taxable federal wages and taxable state wages for NJ residents. (Vehicle fringe benefits are not taxable for PA state wages.)
E. The submission of data to Centralized Payroll after the due dates will result in affected employees receiving their regular 2016 I.R.S. Form W-2 that does not include the proper taxable earnings. As required by regulation, a 2016 I.R.S. Form W-2C, Statement of Corrected Income and Tax Amounts will be issued subsequent to January 31, 2017.

David Ridolfino
Acting Director

Attachments Form# CP Auto I
Form# CP Auto II
Treasury Regulations 1.61-21(b) (5) (To obtain copies call Jessica Sutton @ (609) 292-4754)

LIST OF VEHICLE ASSIGNMENTS
FOR NON-CASH FRINGE BENEFIT - YEAR 2016
(NOVEMBER 1, 2015 THROUGH OCTOBER 31, 2016)

DUE IN CENTRALIZED PAYROLL **NOVEMBER 21, 2016**

EMPLOYEE NAME (PLEASE PRINT) LAST FIRST MI	SOCIAL SECURITY NO.	NO. OF ONE-WAY COMMUTATIONS

DEPARTMENT/AGENCY NAME

TOTAL # OF COMMUTATIONS
FOR DEPARTMENT/AGENCY_____

DIRECTOR OF ADMINISTRATION-SIGNATURE

DIRECTOR OF ADMINISTRATION-NAME (PLEASE PRINT)

FORM# CP AUTO I (REV. 13)

LIST OF VEHICLE ASSIGNMENTS
FOR NON-CASH FRINGE BENEFIT - YEAR 2016
(NOVEMBER 1, 2015 THROUGH OCTOBER 31, 2016)

DUE IN CENTRALIZED PAYROLL **DECEMBER 2, 2016**

EMPLOYEE NAME (PLEASE PRINT) LAST FIRST MI	SOCIAL SECURITY NO.	TOTAL PERSONAL LEASE VALUE (INCLUDING OTHER SERVICES)

DEPARTMENT/AGENCY NAME

DIRECTOR OF ADMINISTRATION-SIGNATURE

DIRECTOR OF ADMINISTRATION-NAME (PLEASE PRINT)

FORM# CP AUTO II (REV. 13)

(5) Fair Market Value Of Chauffeur Services--

(i) Determination Of Value--

(A) In General.

The fair market value of chauffeur services provided to the employee by the employer is the amount that an individual would have to pay in an arm's-length transaction to obtain the same or comparable chauffeur services in the geographic area for the period in which the services are provided. In determining the applicable fair market value, the amount of time, if any, the chauffeur remains on-call to perform chauffeur services must be included. For example, assume that A, an employee of corporation M, needs a chauffeur to be on-call to provide services to A during a twenty-four hour period. If during that twenty-four hour period, the chauffeur actually drives A for only six hours, the fair market value of the chauffeur services would have to be the value of having a chauffeur on-call for a twenty-four hour period. The cost of taxi fare or limousine service for the six hours the chauffeur actually drove A would not be an accurate measure of the fair market value of chauffeur services provided to A. Moreover, all other aspects of the chauffeur's services (including any special qualifications of the chauffeur (e.g., training in evasive driving skills) or the ability of the employee to choose the particular chauffeur) must be taken into consideration.

(B) Alternative Valuation With Reference To Compensation Paid.

Alternatively, the fair market value of the chauffeur services may be determined by reference to the compensation (as defined in paragraph (b)(5)(ii) of this section) received by the chauffeur from the employer.

(C) Separate Valuation For Chauffeur Services.

The value of chauffeur services is determined separately from the value of the availability of an employer-provided vehicle.

(ii) Definition Of Compensation--

(A) In General.

For purposes of this paragraph (b)(5)(ii), the term "compensation" means compensation as defined in section 414(q)(7) and the fair market value of nontaxable lodging (if any) provided by the employer to the chauffeur in the current year.

(B) Adjustments To Compensation--

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For purposes of this paragraph (b)(5)(ii), a chauffeur's compensation is reduced proportionately to reflect the amount of time during which the chauffeur performs substantial services for the employer other than as a chauffeur and is not on-call as a chauffeur. For example, assume a chauffeur is paid $25,000 a year for working a ten-hour day, five days a week and also receives $5,000 in nontaxable lodging. Further assume that during four hours of each day, the chauffeur is not on-call to perform services as a chauffeur because that individual is performing secretarial functions for the employer. Then, for purposes of determining the fair market value of this chauffeur's services, the employer may reduce the chauffeur's compensation by 4/10 or $12,000 (.4 x ($25,000+$5,000)=$12,000). Therefore, in this example, the fair market value of the chauffeur's services is $18,000 ($30,000 - $12,000). However, for purposes of this paragraph (b)(5)(ii), a chauffeur's compensation is not to be reduced by any amounts paid to the chauffeur for time spent "on-call," even though the chauffeur actually performs other services for the employer during such time. For purposes of this paragraph (b)(5)(ii), a determination that a chauffeur is performing substantial services for the employer other than as a chauffeur is based upon the facts and circumstances of each situation. An employee will be deemed to be performing substantial services for the employer other than as a chauffeur if a certain portion of each working day is regularly spent performing other services for the employer.

(iii) Calculation Of Chauffeur Services For Personal Purposes Of The Employee.

The fair market value of chauffeur services provided to the employee for personal purposes may be determined by multiplying the fair market value of chauffeur services, as determined pursuant to paragraph (b)(5)(i) (A) or (B) of this section, by a fraction, the numerator of which is equal to the sum of the hours spent by the chauffeur actually providing personal driving services to the employee and the hours spent by the chauffeur in "personal on-call time," and the denominator of which is equal to all hours the chauffeur spends in driving services of any kind paid for by the employer, including all hours that are "on-call."

(iv) Definition Of On-Call Time.

For purposes of this paragraph, the term "on-call time" means the total amount of time that the chauffeur is not engaged in the actual performance of driving services, but during which time the chauffeur is available to perform such services. With respect to a round-trip, time spent by a chauffeur waiting for an employee to make a return trip is generally not treated as on-call time; rather such time is treated as part of the round-trip.

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(v) Definition Of Personal On-Call Time.

For purposes of this paragraph, the term "personal on-call time" means the amount of time outside the employee's normal working hours for the employer when the chauffeur is available to the employee to perform driving services.

(vi) Presumptions.

(A)

An employee's normal working hours will be presumed to consist of a ten hour period during which the employee usually conducts business activities for that employer.

(B)

It will be presumed that if the chauffeur is on-call to provide driving services to an employee during the employee's normal working hours, then that on-call time will be performed for business purposes.

(C)

Similarly, if the chauffeur is on-call to perform driving services to an employee after normal working hours, then that on-call time will be presumed to be "personal on-call time."

(D)

The presumptions set out in paragraph (b)(5)(vi)(A), (B), and (C) of this section may be rebutted. For example, an employee may demonstrate by adequate substantiation that his or her normal working hours consist of more than ten hours. Furthermore, if the employee keeps adequate records and is able to substantiate that some portion of the driving services performed by the chauffeur after normal working hours is attributable to business purposes, then personal on-call time may be reduced by an amount equal to such personal on-call time multiplied by a fraction, the numerator of which is equal to the time spent by the chauffeur after normal working hours driving the employee for business purposes, and the denominator of which is equal to the total time spent by the chauffeur driving the employee after normal working hours for all purposes.

(vii) Examples.

The rules of this paragraph (b)(5) may be illustrated by the following examples:

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Example (1)

An employer makes available to employee A an automobile and a full-time chauffeur B (who performs no other services for A's employer) for an entire calendar year. Assume that the automobile lease valuation rule of paragraph (d) of this section is used and that the Annual Lease Value of the automobile is $9,250. Assume further that B's compensation for the year is $12,000 (as defined in section 414(q)(7)) and that B is furnished lodging with a value of $3,000 that is excludable from B's gross income. The maximum amount subject to inclusion in A's gross income for use of the automobile and chauffeur is therefore $24,250 ($12,000+$3,000+$9,250). If 70 percent of the miles placed on the automobile during the year are for A's employer's business, then $6,475 is excludable from A's gross income with respect to the automobile as a working condition fringe ($9,250 x .70). Thus, $2,775 is includible in A's gross income with respect to the automobile ($9,250-$6,475). With respect to the chauffeur, if 20 percent of the chauffeur's time is spent actually driving A or being on-call to drive A for personal purposes; then $3,000 is includible in A's income (.20 x $15,000). Eighty percent of $15,000, or $12,000, is excluded from A's income as a working condition fringe.

Example (2)

Assume the same facts as in example (1) except that in addition to providing chauffeur services, B is responsible for performing substantial non-chauffeur-related duties (such as clerical or secretarial functions) during which time B is not "on-call" as a chauffeur. If B spends only 75 percent of the time performing chauffeur services, then the maximum amount subject to inclusion in A's gross income for use of the automobile and chauffeur is $20,500 (($15,000 x .75)+$9,250). If B is actually driving A for personal purposes or is on-call to drive A for personal purposes for 20 percent of the time during which B is available to provide chauffeur services, then $2,250 is includible in A's gross income (.20 x $11,250). The income inclusion with respect to the automobile is the same as in example (1).

Example (3)

Assume the same facts as in example (2) except that while B is performing non-chauffeur-related duties, B is on call as A's chauffeur. No part of B's compensation is excluded when determining the value of the benefit provided to A. Thus, as in example (1), $3,000 is includible in A's gross income with respect to the chauffeur.

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