



STATE CONTROLLER'S BULLETIN

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Bulletin #FY18-03

SUBJECT: IRS Reporting Requirements for Personal Use of State Vehicles

DATE: October 18, 2017

TO: All Department and Agency Finance Officers

FROM: Doug Cotnoir, State Controller

In accordance with the Revenue Act of 1978, the Internal Revenue Service requires employees who have use of State vehicles to maintain records of their personal use of the State vehicles for tax reporting purposes.

Departments, Agencies, Boards and Commissions having one or more State vehicles must submit the attached Reports A, B, and/or C, as described below, to the Office of the State Controller (OSC) **no later than November 13, 2017**. Failure to submit by this date reduces the number of pay periods that are available to report the income and withhold the applicable tax from employees' paychecks.

The 2017 tax reporting period is November 1, 2016 through October 31, 2017.

Note: Lists (lease and rental) are available ([Attachments 1 and 2](#)) from Central Fleet Management covering the period of November 1, 2016 through September 30, 2017. The lists are intended to assist you in identifying individuals that should be contacted to report their personal use of a state vehicle.

Reminders:

Agencies/drivers must report any usage for the month of October in their totals for the 2017 tax year.

Central Fleet Management does not track all vehicle usage. Agencies that are not required to report usage to Central Fleet will not appear on the list but are still required to comply with IRS rules posted in this bulletin.

Please do not contact Central Fleet for this information directly. Questions regarding this bulletin should be directed to Thomas.G.Randall@maine.gov at the Office of the State Controller.

Report A – 100% Business Use

Submit Report A ([see page 7](#)) if your employees use State vehicles for business purposes only and no commuting is involved. The IRS gives an example of de minimis use as "a stop for a personal errand on the way between a business delivery and the employee's home."

Report B – Business and Commuting Only by non-elected officials or employees earning less than \$151,700

Submit Report B ([see page 8](#)) if your employees use State vehicles for commuting purposes. Your report to the OSC should identify each employee who has received the commuting fringe benefit and the total dollar value for the 2017 tax reporting period [November 1, 2016 through October 31, 2017].

Employees who use a State vehicle, which includes commuting to and/or from work, will have a fringe benefit value of \$3.00 per day (\$1.50 each way) added to their gross income as reported on their W-2 form, unless the vehicle is defined as a "qualified non-personal vehicle," as described on **pages 4-5**.

If more than one State employee commutes in the same vehicle, the \$3.00 per day (\$1.50 each way) fringe benefit value will be added to each employee's gross income, i.e., each employee must submit a Report B.

Whether a vehicle is assigned to an individual or an agency, each employee meeting the commuting rule must submit a Report B.

Report C – Elected Officials or Employees Whose Compensation is equal to or exceeds \$151,700.

Submit Report C (*see page 9*) if your employee is defined as a "control" employee.

A control employee for a government employer for 2017 is either of the following.

- A government employee whose compensation is equal to or exceeds Federal Government Executive Level V. The 2017 compensation amount for Level V is \$151,700.
- An elected official.

Control employees are not allowed to use the Commuting Valuation rule. Control employees must report and pay income taxes on the personal/commuting portion of the annual lease value of their State vehicle, plus 5.5 cents per mile or the actual cost of gasoline provided by the State (see page 2 of Report C, *Annual Lease Value Table*).

Example: For a control employee with a \$10,000 State vehicle, driven 24,000 miles, of which 6,000 miles is on State business and 18,000 miles is personal/commuting, the taxable income is:

Annual Lease Value (ALV) for \$10,000 car = \$3,100 Personal Use % (18,000 ÷ 24,000) = 75%

Annual Lease Value	(\$3,100 * 75%)	\$2,325
Gasoline at 5.5 cents	(18,000 * 5.5¢)	<u>990</u>
2017 Increased Taxable Income		<u>\$3,315</u>

The Fair Market Value (FMV) is the FMV on January 1 of that year unless the special accounting rule is used, in which case the valuation date is November 1 of the prior year.

Employees should make the necessary changes in their own withholding taxes because the State has elected the "notification method" of withholding.

INSTRUCTIONS FOR SUBMITTING INFORMATION TO THE OFFICE OF THE STATE CONTROLLER

Vehicle use information and Reports A, B, and C are provided with this Bulletin.

Submit only the attached Reports A, B, and/or C formats to document personal use of State vehicles.

A State agency should retain original signed Reports A, B, and/or C for audit purposes.

Agencies should submit copies of Reports A, B, and/or C to Thomas.G.Randall@maine.gov at the Office of the State Controller, preferably in electronic PDF format.

Agencies that are reporting 10 or more employees may complete and electronically submit **Attachment 3 – IRS Vehicle Report** summarizing taxable income totals. Reports A, B, and/or C are still required to be completed and retained at the agency for audit purposes.

For security purposes, please do not send any information containing social security numbers through e-mail. **Attachment 3** contains a field for employees' TAMS ID that should be populated in lieu of social security numbers. Please send spreadsheets to Thomas.G.Randall@maine.gov. If information is submitted by a spreadsheet, then it is not necessary to submit copies of Reports A, B, and/or C.

Departments, Agencies, Boards and Commissions who fail to comply with the provisions of this Controller's Bulletin by November 13, 2017 will be responsible for any resulting delays in issuing 2017 W-2 forms for their employees and any potential fines assessed by the IRS. The IRS may fine the employer \$50.00 for each employee W-2 form not issued by January 31, 2018.

If you have any questions concerning this policy, please feel free to contact Thomas Randall, at the Controller's Office at 626-8492; or, email at Thomas.G.Randall@maine.gov.

Please review **page 4 - Qualified Nonpersonal Use Vehicle Exception –Examples** to determine if the use of a vehicle includes an exception from claiming a personal use benefit. All questions as to whether the employee meets the personal use exception criteria should be directed to the Office of the State Controller only.

Departments must maintain records to support the information provided in response to this bulletin. For personal use of the State vehicle, the following information is required:

- Name of employees that use each vehicle
- Where the vehicle is stored during non work hours
- Written agreements or policy on use of the vehicle including restriction on use
- Mileage logs
- Reports A, B, and/or C signed by employees

QUALIFIED NONPERSONAL USE VEHICLE EXCEPTION

A State employee who falls under the Qualified Nonpersonal Use Vehicle¹ Exception will not have a fringe benefit value of \$3.00 per day (\$1.50 each way) added to their gross income as reported on the their W-2 form. All of an employee's use of a qualified nonpersonal use vehicle is a working condition benefit. A qualified nonpersonal use vehicle is any vehicle the employee is not likely to use more than minimally for personal purposes because of its design. Qualified nonpersonal use vehicles generally include:

Definitions:

Law enforcement officer: An individual who is employed on a full-time basis by a governmental unit that is responsible for the prevention or investigation of crime involving injury to persons or property (including apprehension or detention of persons for such crimes), who is authorized by law to carry firearms, execute search warrants, and to make arrests (other than a citizen's arrest), and who regularly carries firearms (except when it is not possible to do so because of the requirements of undercover work).

The term "law enforcement officer" may include an arson investigator if the investigator otherwise meets the requirements of this paragraph, but does not include Internal Revenue Service special agents.

Public safety officer: An individual who is part of a rescue squad or ambulance crew whose members are rescue workers, ambulance drivers, paramedics, health-care responders, emergency medical technicians or other similar workers. Qualified individuals must be trained in rescue activity or the provision of emergency medical services and have the legal authority and responsibility to engage in rescue activity or provide emergency medical services. Rescue activity means search or rescue assistance in locating or extracting from danger persons lost, missing, or in imminent danger of serious bodily harm. Emergency medical services means provision of first-response emergency medical care (other than in a permanent medical care-facility) or transportation of persons in medical distress (or under emergency conditions) to medical care facilities.

1. CLEARLY MARKED POLICE, FIRE OR PUBLIC SAFETY OFFICER VEHICLES

A police, public safety officer or fire vehicle is a vehicle, owned or leased by a governmental unit, or any agency or instrumentality whereof, that is required to be used for commuting by a police officer, public safety 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 firefighter's obligation to respond to an emergency is prohibited by such governmental unit. A police, fire, or public safety officer vehicle is clearly marked if, through painted insignia or words, it is readily apparent that the vehicle is a police, fire, or public safety officer vehicle. A marking on a license plate is not a clear marking for purposes of 26 CFR 1.274-5.

2. UNMARKED LAW ENFORCEMENT VEHICLES

In general, the substantiation requirements of 26 CFR 1.274-5 do not apply to officially authorized uses of an unmarked vehicle by a "law enforcement officer". To qualify for this exception, any personal use must be authorized by the Federal, State, county or local government agency or department that owns or leases the vehicle and employs the officer, and must be incident to law-enforcement functions, such as being able to report directly from home to a stakeout or surveillance site, or to an emergency situation. Use of an unmarked vehicle for vacation or recreation trips cannot qualify as an authorized use.

3. An ambulance or hearse used for its specific purpose.
4. Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds.
5. Delivery trucks with seating for the driver only, or the driver plus a folding jump seat.

¹ *CFR Title 26 Qualified nonpersonal use vehicle— (i) In general.* For purposes of section 274(d) and this section, the term *qualified nonpersonal use vehicle* means any vehicle which, by reason of its nature (that is, design), is not likely to be used more than a de minimis amount for personal purposes.

6. A passenger bus with a capacity of at least 20 passengers used for its specific purpose.
7. School buses.
8. Tractors and other special-purpose farm vehicles.
9. Bucket truck, cement mixers, combines, cranes and derricks, dump trucks (including garbage trucks), flatbed trucks, forklifts, qualified moving vans, qualified specialized utility repair trucks, and refrigerated trucks.

10. SPECIALIZED UTILITY REPAIR TRUCK

The term qualified specialized utility repair truck means any truck (not including a van or pickup truck) specifically designed and used to carry heavy tools, testing equipment, or parts if

- The shelves, racks, or other permanent interior construction which has been installed to carry and store such heavy items is such that it is unlikely that the truck will be used more than a de minimis amount for personal purposes; and
- The employer requires the employee to drive the truck home in order to be able to respond in emergency situations for purposes of restoring or maintaining electricity, gas, telephone, water, sewer, or steam utility services.

11. PICKUP TRUCKS

A pickup truck with a loaded gross vehicle weight of 14,000 pounds or less is a qualified nonpersonal use vehicle if it has been specially modified so it is not likely to be used more than minimally for personal purposes. For example, a pickup truck qualifies if it is clearly marked with permanently affixed decals, special painting, or other advertising associated with your trade, business, or function and meets either of the following requirements:

- 1) It is equipped with at least one of the following items.
 - a) A hydraulic lift gate.
 - b) Permanent tanks or drums.
 - c) Permanent side boards or panels that materially raise the level of the sides of the truck bed.
 - d) Other heavy equipment (such as an electric generator, welder, boom, or crane used to tow automobiles and other vehicles).
- 2) It is used primarily to transport a particular type of load (other than over the public highways) in a construction, manufacturing, processing, farming, mining, drilling, timbering, or other similar operation for which it was specially designed or significantly modified.

12. VANS

A van with a loaded gross vehicle weight of 14,000 pounds or less is a qualified nonpersonal use vehicle if it has been specially modified so it is not likely to be used more than minimally for personal purposes. For example, a van qualifies if it is clearly marked with permanently affixed decals, special painting, or other advertising associated with your trade, business, or function and has a seat for the driver only (or the driver and one other person) and either of the following items:

- Permanent shelving that fills most of the cargo area.
- An open cargo area and the van always carries merchandise, material, or equipment used in your trade, business, or function.

QUALIFIED NONPERSONAL USE VEHICLE EXCEPTION - EXAMPLES

The following examples illustrate qualified nonpersonal use vehicle exceptions as quoted directly from 26 CFR §1.274-5 paragraph (k) (3) and (6).

EXAMPLE 1

Detective C, who is a “law enforcement officer” employed by a state police department, headquartered in City M, is provided with an unmarked vehicle (equipped with radio communication) for use during off-duty hours because C must be able to communicate with headquarters and be available for duty at any time (for example, to report to a surveillance or crime site). The police department generally has officially authorized personal use of the vehicle by C but has prohibited use of the vehicle for recreational purposes or for personal purposes outside the state. Thus, C's use of the vehicle for commuting between headquarters or a surveillance site and home and for personal errands is authorized personal use as described in paragraph (k)(6)(i) of this section. With respect to these authorized uses the vehicle is not subject to the substantiation requirements of section 274(d) and the value of these uses is **not included** in C's gross income.

EXAMPLE 2

Detective T is a “law enforcement officer” employed by City M. T is authorized to make arrests only within M's city limits. T, along with all other officers of the force, is ordinarily on duty for eight hours each work day and on call during the other sixteen hours. T is provided with the use of a clearly marked police vehicle in which T is required to commute to his home in City M. The police department's official policy regarding marked police vehicles prohibits its personal use (other than commuting) of the vehicles outside the city limits. When not using the vehicle on the job, T uses the vehicle only for commuting, personal errands on the way between work and home, and personal errands within City M. All use of the vehicle by T conforms to the requirements of paragraph (k) (3) of this section. Therefore, the value of that use is excluded from T's gross income as a working condition fringe and the vehicle is not subject to the substantiation requirements of section 274(d).

EXAMPLE 3

Director C is employed by City M as the director of the City's rescue squad and is provided with a vehicle for use in responding to emergencies. Director C is trained in rescue activity and has the legal authority and legal responsibility to engage in rescue activity. The city's rescue squad is not a part of City M's police or fire departments. The director's vehicle is a sedan which is painted with insignia and words identifying the vehicle as being owned by the City's rescue squad. C, when not on a regular shift, is on call at all times. The City's official policy regarding clearly marked public safety officer vehicles prohibits personal use (other than for commuting) of the vehicle outside of the limits of the public safety officer's obligation to respond to an emergency. When not using the vehicle to respond to emergencies, City M authorizes C to use the vehicle only for commuting, personal errands on the way between work and home, and personal errands within the limits of C's obligation to respond to emergencies. With respect to these authorized uses, the vehicle is not subject to the substantiation requirements of section 274(d) and the value of these uses is not includable in C's gross income.

EXAMPLE 4

Coroner D is employed by County N to investigate and determine the cause, time, and manner of certain deaths occurring in the County. Coroner D also safeguards the property of the deceased, notifies the next of kin, conducts inquests, and arranges for the burial of indigent persons. D is provided with a vehicle for use by County N. The vehicle is to be used in County N business and for commuting. Personal use other than for commuting purposes is forbidden. D is trained in rescue activity but has no legal authority or legal responsibility to engage in rescue activity. D's vehicle is a sedan which is painted with insignia and words identifying it as a County N vehicle. D, when not on a regular shift, is on call at all times. D does not satisfy the criteria of a public safety officer under 28 CFR 32.3 (2008). Thus, D's vehicle cannot qualify as a clearly marked public safety officer vehicle. Accordingly, business use of the vehicle is subject to the substantiation requirements of section 274(d), and the value of any personal use of the vehicle, such as commuting, is includable in D's gross income.

REPORT A

"BUSINESS PURPOSES ONLY"
USE OF STATE OF MAINE VEHICLES
(No Personal Use)

Department: _____

Agency/Division: _____

Vehicle License Plate, Vehicle Year, Make and Model: _____

Employee's Name: _____

Date(s) of Use: _____

Mileage

November 1, 2016 through October 31, 2017

_____	_____	_____
Start	Stop	Total

I understand that the vehicle is assigned for State business purposes only and has not been used for personal purposes other than de minimis use.

This is to satisfy substantiation record requirements in accordance with 26 CFR 1.274-5.

Employee's Signature: _____ Date: _____

Supervisor's Signature: _____ Date: _____

Preferably, **PDF copies** of this form should be e-mailed to Thomas.G.Randall@maine.gov.

Otherwise, submit hardcopies to the Office of the State Controller, SHS#14, Attn: Thomas Randall.
The original copy should be retained by Department's or Agency's Administrative Unit for audit purposes.

REPORT B

"BUSINESS COMMUTE PURPOSE ONLY"
USE OF STATE OF MAINE VEHICLES
(Commuting Use Allowed)

Government employees earning \$151,700 or more in 2017 or elected officials must file Report C.

Department: _____

Agency/Division: _____

Vehicle License Plate, Vehicle Year, Make and Model: _____

Employee's Name: _____

*TAMS User ID: _____ (Leave blank if not known. Do not enter SSN)

Number of Days Vehicle is used to commute _____ X \$3.00 = _____

(Do not report \$0.00, complete Report A.)

Mileage

November 1, 2016 through October 31, 2017

Start	Stop	Total
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I understand that this vehicle is assigned for State business purposes, other than de minimis use, and commuting to and/or from work.

During non-business use the vehicle is stored at:

This information is to satisfy substantiation record requirements in accordance with 26 CFR 1.274-5.

Employee's Signature: _____ Date: _____

Supervisor's Signature: _____ Date: _____

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REPORT C

"CONTROL EMPLOYEES" (Government Employees Earning \$151,700 or More in 2017 or Elected Officials - All other use Report B) USE OF STATE OF MAINE VEHICLES (Commuting Use Allowed)

Department: _____

Agency/Division: _____

Vehicle License Plate, Vehicle Year, Make and Model: _____

Employee's Name: _____

*TAMS User ID: _____ (Leave blank if not known. Do not enter SSN)

Vehicle Fair Market Value: _____

Annual Lease Value (Table): _____

		<u>Miles</u>	<u>% of Total</u>
November 1, 2016 through October 31, 2017	Business Use	_____	_____
	Personal Use	_____	_____
	Total Use	_____	_____

This information is to satisfy substantiation record requirements in accordance with 26 CFR 1.274-5.

\$ _____ X _____ % = \$ _____ + (5.5 cents X _____) or \$ _____

Annual Lease Value X Personal Use = Annual Lease Value + Gasoline Cost or Personal Miles

Annual Lease Value (ALV) \$ _____
Gasoline at 5.5 cents \$ _____
2017 Increased Taxable Income \$ _____

The ALV includes maintenance and insurance but not gasoline. If the employer pays for gasoline either an additional 5.5 cents per personal mile or the actual cost must be added to the value of the benefit and included in the employee's gross income.

The Fair Market Value (FMV) is the FMV on January 1 of that year unless the special accounting rule is used, and then the valuation date is November 1 of the prior year.

Employee's Signature: _____ Date: _____

Preferably, PDF copies of this form should be e-mailed to Thomas.G.Randall@maine.gov.

Otherwise, submit hardcopies to the Office of the State Controller, SHS#14, Attn: Thomas Randall. The original copy should be retained by Department's or Agency's Administrative Unit for audit purposes.

ANNUAL LEASE VALUE TABLE²

Automobile Fair Market Value	Annual Lease Value	Automobile Fair Market Value	Annual Lease Value
\$ 0 - 999	\$600	\$22,000 - 22,999	\$6,100
\$1,000 - 1,999	\$850	\$23,000 - 23,999	\$6,350
\$2,000 - 2,999	\$1,100	\$24,000 - 24,999	\$6,600
\$3,000 - 3,999	\$1,350	\$25,000 - 25,999	\$6,850
\$4,000 - 4,999	\$1,600	\$26,000 - 27,999	\$7,250
\$5,000 - 5,999	\$1,850	\$28,000 - 29,999	\$7,750
\$6,000 - 6,999	\$2,100	\$30,000 - 31,999	\$8,250
\$7,000 - 7,999	\$2,350	\$32,000 - 33,999	\$8,750
\$8,000 - 8,999	\$2,600	\$34,000 - 35,999	\$9,250
\$9,000 - 9,999	\$2,850	\$36,000 - 37,999	\$9,750
\$10,000 - 10,999	\$3,100	\$38,000 - 39,999	\$10,250
\$11,000 - 11,999	\$3,350	\$40,000 - 41,999	\$10,750
\$12,000 - 12,999	\$3,600	\$42,000 - 43,999	\$11,250
\$13,000 - 13,999	\$3,850	\$44,000 - 45,999	\$11,750
\$14,000 - 14,999	\$4,100	\$46,000 - 47,999	\$12,250
\$15,000 - 15,999	\$4,350	\$48,000 - 49,999	\$12,750
\$16,000 - 16,999	\$4,600	\$50,000 - 51,999	\$13,250
\$17,000 - 17,999	\$4,850	\$52,000 - 53,999	\$13,750
\$18,000 - 18,999	\$5,100	\$54,000 - 55,999	\$14,250
\$19,000 - 19,999	\$5,350	\$56,000 - 57,999	\$14,750
\$20,000 - 20,999	\$5,600	\$58,000 - 59,999*	\$15,250*
\$21,000 - 21,999	\$5,850		

* For automobiles with a fair market value of more than \$59,999, the annual lease value equals:
 (.25 x the fair market value of the automobile) + \$500.

² IRS Publication 15-B (2017)

SOURCES

26 CFR 1.274-5 - Substantiation requirements

<https://www.gpo.gov/fdsys/pkg/CFR-2017-title26-vol4/pdf/CFR-2017-title26-vol4-sec1-274-5.pdf>

IRS Publication 15-B

<https://www.irs.gov/pub/irs-pdf/p15b.pdf>

Federal Government "Rates of Pay for the Executive" Schedule:

<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/17Tables/exec/pdf/EX.pdf>

State of Maine law regarding personal use of state-own vehicles:

<http://legislature.maine.gov/statutes/5/title5sec7-B.html>

Amended by: State of Maine PL 128 Chapter 284 Part CCC

PART CCC

Sec. CCC-1. 5 MRSA §7-B, as amended by PL 2011, c. 657, Pt. X, §1 and PL 2013, c. 405, Pt. A, §§23 and 24, is further amended to read:

§7-B. Use of state vehicles for commuting

A state-owned or state-leased vehicle may not be used by any employee to commute between home and work, except for those vehicles authorized and assigned to employees of the Baxter State Park Authority and to law enforcement officials within the following organizational units: Bureau of State Police; Maine Drug Enforcement Agency; Office of the State Fire Marshal; the division within the Department of Public Safety designated by the Commissioner of Public Safety to enforce the law relating to the manufacture, importation, storage, transportation and sale of all liquor and to administer those laws relating to licensing and collection of taxes on malt liquor and wine; Bureau of Motor Vehicles; Bureau of Marine Patrol; the forest protection unit within the Bureau of Forestry; Bureau of Warden Service; and Bureau of Parks and Lands; and the Office of Chief Medical Examiner, the investigation division and the Medicaid fraud control unit within the Office of the Attorney General.