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Personal Use of State Vehicles</td><td>Effective Date:
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A. Objective

The Internal Revenue Service (IRS) requires that an employee's personal use of a State vehicle, **including commuting**, be treated as a fringe benefit. This appendix establishes the process for departments to meet this requirement by reporting to the Agency of Administration's VTHR Operations Division (VTHR) the taxable fringe benefit value for employees' personal use of State vehicles. VTHR will record the fringe benefit amount as income to the employee, withhold applicable payroll taxes and report same on the employee's W-2 form.

B. Definitions

Within this appendix -

- **Commuting -** Travel between an employee's residence and their official duty station in a State vehicle; the term ***personal use*** **includes <u>all</u> commuting in a State vehicle.**
  - *Commuting* does <u>not</u> include (1) business travel between an employee's residence and a temporary work location (e.g., field visit, conference) that is more than 35 road-miles from where the employee lives and normally works *or* (2) business travel from one work location to another work location. *The IRS considers these examples to be business travel not subject to fringe benefit treatment.*
- **Control Employee –** An elected official <u>or</u> employee whose compensation equals or exceeds that of a Federal Executive Level V employee – **refer to Part I** of this appendix for the salary threshold.
- **Department -** All agencies, departments, offices, boards, and commissions within the Executive, Judicial or Legislative branches of the State of Vermont.
- **Employee -** All classified, exempt, appointed, elected and temporary employees within the Executive, Judicial or Legislative branches of the State of Vermont.
- **State vehicle -** Any State owned or leased motor vehicle that is available for employee use, regardless of whether the vehicle is under the control of the employee's department <u>or</u> the Department of Buildings & General Services' Fleet Management Services.

C. Authorization to Commute in a State Vehicle

Per the Agency of Administration's ***Bulletin 2.3: State Vehicles***, State-provided vehicles are for official business use only and personal use is prohibited, **except for <u>commuting</u> that has been authorized in accordance with the bulletin**.

D. IRS Overview

Federal law requires employers, including the State of Vermont, to report all taxable fringe benefits to the IRS and the employee. The IRS states that an employee's personal use of an employer-provided vehicle is taxable income to the employee as a non-cash fringe benefit. **The IRS considers <u>commuting</u> in a State vehicle to be personal use, even when the commuting is authorized, directed or required by the employer.**

E. IRS Exclusions

Commuting in a State vehicle is excludable from taxation and no reporting is required under this appendix if any of the following three (3) exceptions are met. Departments should maintain documentation to support their rationale and decision.

i. **De Minimis Use:** Infrequent commuting in a State vehicle such as not more than once a month or twelve (12) times a year. *For employees that exceed the de minimis threshold, the twelve (12) commuting days are reportable and taxable.*

ii. **Qualified Non-Personal Use Vehicle:** Commuting in one of the specific vehicle types defined below is treated by the IRS as a non-taxable *working condition fringe benefit*; departments must refer to **Part II of this appendix** for additional IRS criteria to ensure the vehicle type and use qualifies for exemption:

- Clearly marked police, fire or public safety vehicles
- Unmarked law enforcement vehicles when used by a full-time law enforcement officer authorized to carry firearms, execute warrants and make arrests
- Qualified specialized utility repair trucks (not a van or pick-up) – refer to Part II
- Ambulances or hearses
- Vehicles designed to carry cargo with a loaded gross weight over 14,000 pounds
- Delivery trucks with seating for the driver only, or for driver plus a folding jump seat
- School buses, or passenger buses with a capacity for at least 20 passengers
- Construction or specially designed work vehicles (e.g., bucket trucks, dump trucks, cement mixers, forklifts, garbage trucks, refrigerated trucks, flat-bed trucks)
- Tractors, combines and other special-purpose farm vehicles
- Certain clearly marked and specially modified pick-up trucks and vans – Refer to Part II

iii. **Home-Based Office:** For employees whose residence serves as their official duty station (as documented in official Executive, Judicial or Legislative branch records) and primary place of business, business travel between their residence and work locations associated with their employment is excludable from taxation.

F. Calculation of Taxable Fringe Benefit Value

Employee personal use, including commuting, of a State vehicle that does not qualify for an *exclusion* under Section E of this appendix shall be treated as a taxable fringe benefit, reported as income to the employee, payroll taxes withheld and included on the employee's annual W-2 form. **Employees and departments shall be responsible for documenting, calculating and reporting the taxable fringe benefit value for personal use of State vehicles using one of the following two (2) IRS methods.**

1. <u>Commuting Rule</u>

a. Under this rule the value of a State-provided vehicle used for commuting is **$1.50** per one-way commutation (i.e., home-to-duty station or duty station-to-home). Departments shall use the *Commuting Rule* for employees that meet **<u>all</u>** of the following conditions:

- The vehicle is owned or leased by the State of Vermont.
- The vehicle is provided to the employee for business use.
- **The employer <u>requires</u> the employee to commute in the vehicle for bona fide non-compensatory business reasons.** Specific examples provided in IRS publications that would qualify for the $1.50 commute rule, provided the other criteria are met, include:
  - ∗ A transportation employee, who is on call 24 hours a day to respond to road emergencies, is required by his/her employer to commute in a vehicle outfitted with communications or other equipment the employee would need if called out.
  - ∗ A department does not have secure parking and has a history of vandalism to its vehicles. The employer requires employees using the vehicles during the day on business to take the vehicles home overnight.
  - ∗ The employer requires an employee to take home a van to carry displays and equipment to a trade show the next day.
- The employee does not use the vehicle for personal use other than authorized commuting.
- The employee is **<u>not</u>** a ***Control Employee***.

b. Employees must track, most generally through use of a vehicle log book, and report to their department the total number of one-way commutations.

c. If more than one employee commutes in the vehicle, then each employee must track and report their total number of one-way commutations; the $1.50 per one-way commute valuation applies to <u>each</u> employee.

d. The taxable fringe benefit value is calculated by multiplying the total number of one-way commutations by $1.50.

2. Lease Value Rule

a. Under this rule, the value of a vehicle permanently assigned to an employee and authorized for commuting (i.e., personal use) is determined by using its annual lease value. Departments shall use the *Lease Value Rule* for employees that do not meet the requirements of the *Commuting Rule,* most generally because the commuting (personal use) is not required by the employer for bona fide business reasons, or the employee meets the definition of a "control employee".

b. Employees must separately track and record their business and personal (including commuting) mileage, most generally through the use of a vehicle log book that documents the date, locations, mileage and business purpose (or personal) of the travel. All mileage not substantiated as business use shall be treated as personal use.
   - **Important:** For any employee that fails to maintain adequate documentation of their business use of the vehicle, or fails to report that information timely to their department, the department shall report 100% of the miles driven as personal use.

c. Following are the key steps for departments to calculate the taxable fringe benefit value (refer to IRS Publication 15-B for more information):
   1. (i.) Determine the fair market value (FMV) of the vehicle on the date it is available to the employee for personal use, including commuting. [maintain supporting documentation of FMV]
      - **FMV** is the amount a prudent person would pay, including all related purchase expenses, to buy the vehicle from a third-party in an arm's length transaction for the geographic area.
   2. (ii.) Use the FMV and the IRS' Annual Lease Value Table (Part III of this appendix) to compute the vehicle's annual lease value.
   3. (iii.) Multiply the annual lease value by the percentage of the employee's personal use (including commuting) of the vehicle; i.e., "personal miles driven divided by total miles driven".
   4. (iv.) Fuel Use: Multiply total personal miles by 5.5 cents (provided the State pays for the fuel).
   5. (v.) The sum the above two amounts (iii + iv) is the taxable fringe benefit value.

d. Departments must continue to use the lease value rule for all later years in which the vehicle is made available to any employee, except the *commuting rule* may be used for any year during which the employee and vehicle use qualifies.

e. Once computed, the same annual lease value remains in effect through the 4th full report year after the rule is first applied; after the 4th year the annual lease value shall be re-calculated.

f. When a department provides a vehicle to an employee for less than an entire year (e.g., new hire, change in duties, separation from employment), the annual lease value shall be prorated based on the period of availability.

G. Annual Reporting Period and Required Forms

Departments shall report the taxable fringe benefit value of each employee's personal use of State vehicles to the Agency of Administration's VTHR Operations Division using the officially prescribed forms and in accordance with the following schedule.

➢ **Schedule**

Employee Vehicle Use Reporting Period*:	Dept Collects & Compiles Employee Provided Data:	Dept Completes & Submits Official Form(s) to VTHR by:	VTHR Applies Benefit Amount to Employee Wages & Withholds Taxes:
November 1st – October 31st (Note: Year 1 will run 9 months only, from: 2/7/2016 – 10/31/2016)	**November 1st – 24th**	**November 25th**	**a Pay period in December**

* The State of Vermont utilizes the IRS' ***special accounting rule*** which allows the State to treat the value of taxable non-cash benefits as "paid" on an annual basis, and to treat benefits provided during the last two months of a calendar year as "paid" in the next year.

➢ **Official Forms** **(Part IV of this appendix)**

- **Personal Use of State Vehicles – Commuting Rule Form**
  → Departments must use **Form VTHR_PUSV1** to summarize and report taxable commuting for all its employees covered by the *Commuting Rule* under Section F.1 of this appendix.

- **Personal Use of State Vehicles - Lease Value Rule Form**
  → Departments must use this **Form VTHR_PUSV2** to summarize and report taxable commuting for all its employees covered by the *Lease Value Rule* under Section F.2 of this appendix.

- **Employee Acknowledgement of Responsibilities and Receipt of Form**
  → Departments must use this **Form VTHR_PUSV3** to obtain employees' signature acknowledging they have received and understand their responsibilities and the financial impact.

H. Department Key Responsibilities

- Develop and implement internal procedures, timelines and documentation requirements consistent with this bulletin and appendix to ensure complete, timely and accurate reporting of fringe benefit data for employees' personal use of State vehicles.
- Identify all State vehicles used by employees for personal use, including commuting; ensure this process is on-going throughout the year so that changes (new hires, new vehicles, change in duties, separation from employment, etc.) can be addressed timely and proper notification given to employees.
- Ensure all employee personal use of State vehicles, including commuting, has been authorized in accordance with AOA Bulletin 2.3: State Vehicles.
- Determine whether the employee's personal use and/or vehicle type qualifies under any of the three exclusions from taxation specified under Section E. of this appendix.

If there is no exclusion, then a taxable fringe benefit must be reported…

- Determine which fringe benefit valuation rule (Commuting or Annual Lease Value) applies under Section F. of this appendix.
- For the Annual Lease Value method, determine the vehicle's fair market value then compute the annual lease value.
- Inform the employee that their personal use, including commuting, of a State vehicle must be reported as a taxable fringe benefit, and provide a copy of (or link to) this Bulletin and Appendix.
- Notify employees in writing, Per IRS Pub 15B, that Federal and State withholding taxes associated with the taxable fringe benefit value will not be deducted from their bi-weekly pay; however the value of the taxable fringe benefit will be included as taxable income on their Form W-2 and reported to the IRS annually. Employees must receive this notification by January 31st, or within 30 days of receiving the vehicle for use, whichever is later.
- Notify employees in writing that the value of the taxable fringe benefit associated with having a state assigned vehicle is subject to FICA taxes (Social Security tax and Medicare tax). The FICA taxes will be deducted from their pay during the month of December.

- Provide the employee with the department's internal procedures, timelines and documentation requirements for the employee to track and report their vehicle use.
- Vehicle fringe benefit data is reported annually to VTHR; however, for internal monitoring purposes, departments *may* require employees to report their personal use of State vehicles on a more frequent basis (e.g., semi-annually).
- Ensure personal use of State vehicles is reported by employees (*prior to their departure) that* separate from State service or transfer to another department. This information should then be forwarded to Payroll immediately (at the same **time Personnel Action Request (PAR)** notification of termination/retirement is sent **to VTHR Operations HRIS Division**) so that the taxable fringe benefit may be properly added for the calendar year to date and **Social Security/Medicare (FICA)** taxes may be collected from employees' final payment.
- Review vehicle use information submitted by employees for accuracy, completeness and reasonableness; take appropriate action to resolve invalid or missing data.
- Retain documentation to support taxable fringe benefit amounts, including but not limited to vehicle log books, vehicle valuation work papers (re: Lease Value Rule), etc.
- Annually complete and submit the required ***Personal Use of State Vehicles*** forms to VTHR by the due date, in accordance with Section G. of this appendix.

I. Employee Key Responsibilities

- Comply with the Agency of Administration's ***Bulletin 2.3: State Vehicles*** and this appendix.
- Substantiate business and personal use of State vehicles (e.g., vehicle log book to document mileage and/or commutations) in accordance with this appendix and departmental requirements.
- The employee acknowledges that -
  - ✓ Personal use of a State vehicle, including commuting, is a fringe benefit even when the commuting is required by the employer and/or the employee's job duties.
  - ✓ The fringe benefit is taxable unless it qualifies for exclusion under Section E. of this appendix.
  - ✓ The taxable fringe benefit value, as calculated in accordance with IRS approved methods (Section F. of this appendix), will be reported annually as income to the employee, taxes withheld and included on the employee's W-2 Form.
  - ✓ Failure to adequately or timely substantiate business and personal use of State vehicles will most likely result in 100% of the vehicle's use being reported as *personal and taxable*.

J. VTHR Key Responsibilities

- Receive and internally process the ***Personal Use of State Vehicles*** forms as submitted by departments.
- Include the taxable fringe benefit amount, as documented on the official forms, in the employee's gross wages during the month of December in one of the final two pay periods of the calendar year.
- Withhold Social Security and Medicare (FICA) taxes from the employee's pay.
- Charge the employee's *current* department for the State's share of FICA & Medicare taxes.
- Remit the taxes withheld from the employee, along with the State's share.
- Report the taxable fringe benefit amount and taxes withheld on the employee's annual W-2 Form.
- Issue a *corrected* W-2C Form to affected employees, subsequent to January 31st, for late, incomplete or inaccurate submissions of fringe benefit amounts to VTHR.
- ***For inactive or terminated employees who were not previously reported to Payroll***, Payroll will calculate FICA tax based on the value of the taxable fringe benefit and charge both the employee and State share of FICA taxes owed to the Department.

K. Technical Assistance

- Contact Fleet Management Services **(FMS)** within the Department of Buildings & General Services for assistance regarding fair market valuation of vehicles, IRS criteria for exempt vehicle types (i.e., "qualified non-personal use vehicles") and application of IRS valuation rules.

- Contact the **VTHR Operations Division (VTHR)** within the Agency of Administration for assistance regarding submission of official forms, payroll issues, taxation and W-2 reporting.

- Refer to the Agency of Administration's ***Bulletin 2.3: State Vehicles*** for State policy regarding the procurement, use and disposal of State vehicles.

- Refer to **IRS Publications *5137: Fringe Benefit Guide*** and ***15-B: Employer's Tax Guide to Fringe Benefits*** for authoritative guidance, including examples, on Federal rules relating to employee fringe benefits, tax treatment, valuation rules and the appropriate withholding and reporting procedures.

Note: The State of Vermont does not provide personal tax advice to employees; employees may contact their individual tax preparer.

L. Waivers

The Agency of Administration has no authority to waive any IRS requirements pertaining to the taxation of employee fringe benefits.

M. Effective Date

This Appendix A is effective upon issuance, but to provide departments with adequate time for employee notification and the development and implementation of internal procedures, the initial reporting period for employees' personal use of State vehicles shall begin on **February 21, 2016**.