

**TO: Fleet Administrators, Payroll Directors and
All State Employees in Employer-Provided Vehicles**

**FROM: Alex Giannantonio, Director of Fleet Policy and Administration
Office of Vehicle Management, Operational Services Division**

DATE September 23, 2020

**RE: Required Fringe Benefit for Tax Reporting for Tax Year 2020 -
Employee Use of Commonwealth Provided Vehicle**

Federal and State Law require employers, including the Commonwealth, to include "Fringe Benefit Income" on annual W-2 forms submitted to the Internal Revenue Service (IRS) and Department of Revenue (DOR) for each employee. Such fringe benefit income includes an employee's use of an employer-provided vehicle for business purposes which is also used for personal commuting. The IRS regulations on this topic are extensive. The primary provisions are found in Federal Payroll Tax Laws and Regulations, United States Code, Title 26, and Internal Revenue Code, Code 61 Reg. 1.61-21(f)(3). Pertinent definitions are listed at the end of this memo.

Please note that the IRS rules require employees to maintain adequate records to substantiate their use of an employer-provided vehicle. While it is the Commonwealth's duty to report usage of Commonwealth provided vehicles by employees to the IRS, disputes concerning the correct computation or verification of commuting use are between the taxpayer and the IRS. It is assumed that this requirement will continue, and the employee is required to maintain accurate records for tax year 2020.

In an effort to issue a single, complete and correct W-2 for tax year 2020 through the state payroll system, HRCMS, non-cash benefits such as the use of a Commonwealth provided vehicle for business and commuting purposes will be included in an employee's taxable gross income and reported together with regular wages on the W-2.

Fringe benefits must be added to an employee's federal and state taxable gross income and are subject to federal and state income tax withholding and Medicare taxes. Non-cash fringe benefits are added to Federal taxable gross (Box 1) and state taxable gross (Box 16). Non-cash fringe benefits included in Box 1 are summarized in Box 14. The Commonwealth annually reports employee use of Commonwealth motor vehicles for commuting using the period from November through October. Reporting for tax year 2019 will be November 1, 2019 through October 31, 2020.

Employees Commuting 15 or Less Times During November 1, 2019 - October 31, 2020

The IRS rules provide for the exclusion of fringe benefits having immaterial value. Accounting for them would be administratively impractical ("De Minimis Fringe"). For the purposes of this memo, employees who commute in Commonwealth-provided vehicles must report only if they have had 15 or more commutes during the period from November 1, 2019 through October 31, 2020.

Employee Reporting Responsibilities

1. Any employee who received the fringe benefit of the use of a Commonwealth-provided vehicle for business use and commuting, should list the number of commutes made in employer-provided vehicles in PART A of the attached "**CERTIFICATION OF EMPLOYEE MOTOR VEHICLE USE - FORM OVM IRS**". The number of **one-way** commutes you have made in employer-provided vehicles will be multiplied by \$1.50. Your W-2 will reflect this amount.
2. If more than one employee commutes in the vehicle, this value applies to each employee. Each employee needs to complete and sign attachment Part A.
3. If some or all of your commutes in a Commonwealth-provided vehicle(s) were eligible for the exemptions described under the Definitions Section, you should complete PART B of the Certification Form. Please describe in detail the factors that make the exemption applicable, so that OVM can confirm its validity.
4. For those few individuals that have been granted domicile privileges, their income as reported to the IRS will reflect the \$1.50 rate per commute for 249 days, unless the signed certification indicates a different number of commutes.
5. *******The completed and executed Certification Form (PART A and B) must be returned to your Department's Payroll Director NO LATER THAN November 22, 2020.**

**FAILURE TO RETURN THIS CERTIFICATION FORM BY THE DEADLINE WILL
AFFECT YOUR INCOME AS REPORTED TO THE IRS FOR 2020.**

Department Processing and Reporting Requirements

Departments are responsible for the processing of tax reporting for employees receiving the fringe benefit of the use of a Commonwealth-provided vehicle for business use and commuting.

1. The agency's Fleet Manager must distribute the attached "**CERTIFICATION OF EMPLOYEE MOTOR VEHICLE USE - FORM OVM IRS**" to any employee who has been provided with use of a Commonwealth provided vehicle between November 1, 2019 and October 31, 2020. The agency's Fleet Manager should immediately forward the completed forms to their Payroll Director for processing.
2. The agency's Fleet Manager must list any employee who has used a Commonwealth-provided vehicle for business use and commuting at any time during November 1, 2019 through October 31, 2020 in "**PART C - Summary**" on the attached "**SUMMARY CERTIFICATION FOR DEPARTMENT OF EMPLOYEE MOTOR VEHICLE USE**."
3. The agency's Fleet Manager must complete the attached Summary Certification (PART C) and return it to the Office of Vehicle Management (OVM) **NO LATER THAN November 22, 2020**.
4. Data entry may begin as soon as the form is returned. However, all forms must be entered no later than December 09, 2020 for the pay period ending December 06, 2020. For HRCMS, the earnings code is CAR and is entered as an annual amount.
5. All employees who received the non-cash fringe benefit of use of a Commonwealth provided vehicle for business and commuting must have their payroll records updated by the payroll period ending December 07, 2020, the car entry will appear on the HRCMS e-pay-stub as "Employee Use of State Vehicle".

Definitions

Commuting Use Income: Federal Statutes and regulations require the attribution of income to employees for each commute made in a (NON-EXEMPT) employer-provided motor vehicle. The meaning of each of these terms is explained below.

The IRS permits employers to select any of several methods for valuing employee use of employer-provided vehicles. The Commonwealth has again chosen to use the method that applies a flat rate of \$1.50 per **one-way** commute since this will be the simplest and most advantageous approach in the vast majority of cases.

Commute: Under the IRS rules, a “commute” is a trip, one end of which is at your home, and the other end of which is at a work site located in the area where you ordinarily work. When the work site to which you travel is **outside** the area where you ordinarily work, the IRS regards your travel as a business trip, not a commute, subject to fringe benefit treatment.

Thus, to count your commutes, you must first identify the area where you ordinarily work. Then, anytime that you set out from home and travel to a work site in that area, you have commuted. Each trip to or from your home counts as a commute. So, if you go to work and return home again, you have made two one-way commutes.

Employer-Provided Vehicle: The IRS rules attribute income to you for any commute that you made in a vehicle made available to you in connection with your employment. Specifically, you must count commutes, not only when you were a driver, but also when you were a passenger in an employer-provided vehicle (whether or not the driver also counts the same trip as a commute). And you must count commutes, not only in Commonwealth-owned vehicles, but also in vehicles leased to the Commonwealth or provided to you by a contractor in connection with your state employment.

The IRS rules provide exemptions for commutes made in certain narrowly defined classes of “Qualified Non-Personal use vehicles”. Two specific components of this exemption are noteworthy (see 26 CFR 1.274-5T (K)).

Law Enforcement and Fire Vehicles-Clearly Marked (exemption): Police and fire vehicles are exempt when a police officer or a fire fighter is required to commute in these vehicles so that he/she can be on call outside his/her regular shift. In addition, unmarked law enforcement vehicles are exempt when used in fulfilling a law enforcement responsibility by an individual meeting a three-part definition of law enforcement officer. A law enforcement officer must: 1. Be employed full-time by a law enforcement agency; 2. Be authorized to carry a gun, 3. Be authorized to execute warrants, 4. Be authorized to make arrests and; 5. Ordinarily carries a firearm.

Vehicle Unsuitable for Personal Use (exemption): Vehicles, which, because of their design and construction, are unlikely to be used to any significant extent for personal purposes are exempt. The regulation lists the types of vehicles, such as garbage trucks, tractors, and flatbed trucks, covered by this exemption. **The regulation specifically states that pickup trucks and vans are not exempt. Cab lights, two-way radios and custom paint do not modify a vehicle beyond personal use.**

OVM recognizes that the IRS rules on this subject are complex and that this memo can only offer general guidance that cannot cover every individual situation. If you do not understand how these rules apply to you or if you have any questions, please feel free to call Alex Giannantonio at OVM, (617) 720-3171. You may also wish to consult with your tax preparer.

Gary Lambert, Assistant Secretary for Operational Services
Kevin J. McHugh, Assistant Comptroller
Tryntje R. Bumgardner, Chief of Statewide Payroll Bureau

The Commonwealth of Massachusetts
OPERATIONAL SERVICES DIVISION
Office of Vehicle Management

CERTIFICATION OF EMPLOYEE MOTOR VEHICLE USE
Form OVM-IRS

PART A*- Usage:

I hereby certify that, during the period from November 1, 2019 to October 31, 2020, I used a non-exempt vehicle provided in connection with my employment by the Commonwealth of Massachusetts for no more than:

_____ One-way Commuting Trips.

OR

PART B - Exemption:

_____ All (how many?) _____ Some (how many?)

of my continuing use of my employer-provided vehicle in 2020 was exempt from IRS reporting requirements because of:

(Refer to the IRS Publication - *Business Use of a Car*, for authorized exemptions.)

Name: _____

Employee ID Number: _____

Position: _____

Agency: _____ Agency Code # _____

Signature of Employee _____

Signed under the pains and penalties of perjury _____ day
of _____, 2020

or

This form must be returned by November 22, 2020 to your Department's Fleet Manager.

FAILURE TO RETURN THIS FORM BY THE DEADLINE WILL AFFECT YOUR INCOME AS REPORTED TO THE IRS FOR 2019.

* Everyone should fill out **Part A** of this certification. If you made no commutes in employer-provided vehicles, *or* if all of your commutes are exempt, please place a zero in the blank. Otherwise, list the numbers of non-exempt **one-way** commutes you have made in employer-provided vehicles. Your W-2 will reflect this number multiplied by \$1.50.

