

## Attachment 3

### Guidelines for Qualified Nonpersonal-Use of Vehicles

An employee's use of a qualified nonpersonal-use vehicle is a working condition fringe 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, including trucks and vans, are exempt from business use substantiation. They generally include all of the following vehicles:

- Clearly marked police, fire vehicles and public safety officer vehicle (if the employee is always on call, is required to use the vehicle for commuting, and is prohibited from using the vehicle for personal purposes (other than commuting) outside the employee's jurisdiction).
- Unmarked vehicles used by law enforcement officers (if the personal use is officially authorized and incident to law enforcement functions, i.e. no vacation use). (See additional information below.)
- An ambulance or hearse used for its specific purpose.
- Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds.
- Delivery trucks with seating for the driver only, or the driver plus a folding jump seat.
- A passenger bus with a capacity of at least 20 passengers used for its specific purpose.
- School buses.
- Tractors and other special-purpose farm vehicles.
- Bucket trucks, 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.

#### **Unmarked Law Enforcement Vehicles**

To qualify for the exception to the substantiation requirements of IRC Section 274(d) for an unmarked vehicle used by a "law enforcement officer", any personal use must be authorized by the Federal, State, county, or local governmental 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.

#### **Who is a Law Enforcement Officer?**

A law enforcement officer is an individual who:

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

IRS has provided additional guidelines for determining when certain specifically modified pickup trucks or vans will be recognized as qualified non-personal-use vehicles.

**Pickup trucks** with a loaded gross vehicle weight of 14,000 pounds or less if either of the following requirements is met:

- Vehicle is clearly marked with permanently affixed decals or with special painting or other advertising associated with the employer's trade, business, or function **and is equipped** with at least **one** of the following:
  - 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
  - Other heavy equipment such as an electric generator, welder, boom or crane used to tow automobile and other vehicles
- The vehicle is clearly marked with permanently affixed decals or with 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 construction, manufacturing, processing, farming, mining, drilling, timbering, or other similar operation, and has been designed or modified to a significant degree for such use.

**Vans** with a loaded gross vehicle weight not over 14,000 pounds, if it has been specially modified with the result that it is not likely to be used more than minimally for personal purposes. For example:

- Vehicle is clearly marked with permanently affixed decals or with special painting or other advertising associated with the employer's trade, business, or function, and has a seat only for the driver or the driver and one (1) other person, and has either:
  - Permanent shelving installed that fills most of the cargo area, or
  - An open cargo area and the van always carries merchandise, material, or equipment used in the employer's trade, business or function.