

1. Fringe Benefit Overview

Employer Provided Vehicles are taxable to the employee for the value provided as a fringe benefit. Some exclusions apply - See below

A fringe benefit is a form of pay for the performance of services. For example, you provide an employee with a fringe benefit when you allow the employee to use a business vehicle to commute to and from work.

Transportation (Commuting) Benefits

This section discusses exclusion rules that apply to benefits you provide to your employees for their personal transportation, such as commuting to and from work. These rules apply to the following transportation benefits.

- #1 • De minimis transportation benefits. Does not apply to city - transit fares not provided
- #2 • Qualified transportation benefits. Does not apply to city - see below

Special rules that apply to demonstrator cars and qualified nonpersonal use vehicles are discussed under [Working Condition Benefits](#), later in this section.

De Minimis Transportation Benefits

You can exclude the value of any de minimis transportation benefit you provide to an employee from the employee's wages. A de minimis transportation benefit is any local transportation benefit you provide to an employee if it has so little value (taking into account how frequently you provide transportation to your employees) that accounting for it would be unreasonable or administratively impracticable. For example, it applies to occasional local transportation fare you give an employee because the employee is working overtime if the benefit is reasonable and isn't based on hours worked. Local transportation fare provided on a regular or routine basis doesn't qualify for this exclusion.

Employee. For this exclusion, treat any recipient of a de minimis transportation benefit as an employee.

Qualified Transportation Benefits

This exclusion applies to the following benefits.

- A ride in a commuter highway vehicle between the employee's home and work place.
- A transit pass.
- Qualified parking.
- Qualified bicycle commuting reimbursement.

You may provide an employee with any one or more of the first three benefits at the same time. However, the exclusion for qualified bicycle commuting reimbursement isn't available in any month the employee receives any of the other qualified transportation benefits.

Qualified transportation benefits can be provided directly by you or through a bona fide reimbursement arrangement. However, cash reimbursements for transit passes qualify only if a voucher or a similar item that the employee can exchange only for a transit pass isn't readily available for direct distribution by you to your employee. A voucher is readily available for direct distribution only if an employer can obtain it from a voucher provider that doesn't impose fare media charges or other restrictions that effectively prevent the employer from obtaining vouchers. See Regulations section 1.132-9(b)(Q&A 16-19) for more information.

Generally, you can exclude qualified transportation fringe benefits from an employee's wages even if you provide them in place of pay. However, qualified bicycle commuting reimbursements can't be excluded if the reimbursements are provided in place of pay. For information about providing qualified transportation fringe benefits under a compensation reduction agreement, see Regulations section 1.132-9(b)(Q&A 11-15).

None of these
apply to City
Employees

This is like a
UTA Rideshare
Van - Does not
apply to City

Commuter highway vehicle. A commuter highway vehicle is any highway vehicle that seats at least 6 adults (not including the driver). In addition, you must reasonably expect that at least 80% of the vehicle mileage will be for transporting employees between their homes and work place with employees occupying at least one-half the vehicle's seats (not including the driver's).

Transit pass. A transit pass is any pass, token, farecard, voucher, or similar item entitling a person to ride, free of charge or at a reduced rate, on one of the following.

- On mass transit.
- In a vehicle that seats at least 6 adults (not including the driver) if a person in the business of transporting persons for pay or hire operates it.

Mass transit may be publicly or privately operated and includes bus, rail, or ferry. For guidance on the use of smart cards and debit cards to provide qualified transportation fringes, see Revenue Ruling 2014-32, 2014-50 I.R.B. 917, available at [IRS.gov/irb/2014-50_IRB/ar06.html](https://www.irs.gov/irb/2014-50_IRB/ar06.html).

Qualified parking. Qualified parking is parking you provide to your employees on or near your business premises. It includes parking on or near the location from which your employees commute to work using mass transit, commuter highway vehicles, or carpools. It doesn't include parking at or near your employee's home.

Qualified bicycle commuting reimbursement. For any calendar year, the exclusion for qualified bicycle commuting reimbursement includes any employer reimbursement during the 15-month period beginning with the first day of the calendar year for reasonable expenses incurred by the employee during the calendar year.

Reasonable expenses include:

- The purchase of a bicycle; and
- Bicycle improvements, repair, and storage.

These are considered reasonable expenses as long as the bicycle is regularly used for travel between the employee's residence and place of employment.

Employee. For this exclusion, treat the following individuals as employees.

- A current employee.
- A leased employee who has provided services to you on a substantially full-time basis for at least a year if the services are performed under your primary direction or control.

A self-employed individual isn't an employee for qualified transportation benefit purposes.

Exception for S corporation shareholders. Don't treat a 2% shareholder of an S corporation as an employee of the corporation for this purpose. A 2% shareholder is someone who directly or indirectly owns (at any time during the year) more than 2% of the corporation's stock or stock with more than 2% of the voting power. Treat a 2% shareholder as you would a partner in a partnership for fringe benefit purposes, but don't treat the benefit as a reduction in distributions to the 2% shareholder.

Relation to other fringe benefits. You can't exclude a qualified transportation benefit you provide to an employee under the de minimis or working condition benefit rules. However, if you provide a local transportation benefit other than by transit pass or commuter highway vehicle, or to a person other than an employee, you may be able to exclude all or part of the benefit under other fringe benefit rules (de minimis, working condition, etc.).

Exclusion from wages. You can generally exclude the value of transportation benefits that you provide to an employee during 2017 from the employee's wages up to the following limits.

- \$255 per month for combined commuter highway vehicle transportation and transit passes.
- \$255 per month for qualified parking.
- For a calendar year, \$20 multiplied by the number of qualified bicycle commuting months during that year for qualified bicycle commuting reimbursement of expenses incurred during the year.

Qualified bicycle commuting month. For any employee, a qualified bicycle commuting month is any month the employee:

1. Regularly uses the bicycle for a substantial portion of the travel between the employee's residence and place of employment; and

2. Doesn't receive:
 1. Transportation in a commuter highway vehicle,
 2. Any transit pass, or
 3. Qualified parking benefits.

Benefits more than the limit. If the value of a benefit for any month is more than its limit, include in the employee's wages the amount over the limit minus any amount the employee paid for the benefit. You can't exclude the excess from the employee's wages as a de minimis transportation benefit.

More information. For more information on qualified transportation benefits, including van pools, and how to determine the value of parking, see Regulations section 1.132-9.

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Working Condition Benefits This is an exclusion that applies to some city employees

This exclusion applies to property and services you provide to an employee so that the employee can perform his or her job. It applies to the extent the employee could deduct the cost of the property or services as a business expense or depreciation expense if he or she had paid for it. The employee must meet any substantiation requirements that apply to the deduction. Examples of working condition benefits include an employee's use of a company car for business, an employer-provided cell phone provided primarily for noncompensatory business purposes, and job-related education provided to an employee.

This exclusion also applies to a cash payment you provide for an employee's expenses for a specific or prearranged business activity for which a deduction is otherwise allowable to the employee. You must require the employee to verify that the payment is actually used for those expenses and to return any unused part of the payment.

For information on deductible employee business expenses, see *Unreimbursed Employee Expenses* in Pub. 529.

The exclusion doesn't apply to the following items.

- A service or property provided under a flexible spending account in which you agree to provide the employee, over a time period, a certain level of unspecified noncash benefits with a predetermined cash value.
- A physical examination program you provide, even if mandatory.
- Any item to the extent the employee could deduct its cost as an expense for a trade or business other than your trade or business.

Employee. For this exclusion, treat the following individuals as employees.

- A current employee. All City employees fit in this category for this exclusion test
- A partner who performs services for a partnership.
- A director of your company.
- An independent contractor who performs services for you.

Vehicle allocation rules. If you provide a car for an employee's use, the amount you can exclude as a working condition benefit is the amount that would be allowable as a deductible business expense if the employee paid for its use. If the employee uses the car for both business and personal use, the value of the working condition benefit is the part determined to be for business use of the vehicle. See *Business use of your car* under *Personal Versus Business Expenses* in chapter 1 of Pub. 535. Also, see the special rules for certain demonstrator cars and qualified nonpersonal use vehicles discussed later.

However, instead of excluding the value of the working condition benefit, you can include the entire annual lease value of the car in the employee's wages. The employee can then claim any deductible business

This publication will be reviewed separately for taxation of employer provided vehicles.

expense for the car as an itemized deduction on his or her personal income tax return. This option is available only if you use the [lease value rule](#) (discussed in section 3) to value the benefit.

City has none Demonstrator cars. Generally, all of the use of a demonstrator car by your full-time auto salesperson in the sales area in which your sales office is located qualifies as a working condition benefit if the use is primarily to facilitate the services the salesperson provides for you and there are substantial restrictions on personal use. For more information and the definition of "full-time auto salesperson," see Regulations section 1.132-5(o). For optional, simplified methods used to determine if full, partial, or no exclusion of income to the employee for personal use of a demonstrator car applies, see Revenue Procedure 2001-56. You can find Revenue Procedure 2001-56 on page 590 of Internal Revenue Bulletin 2001-51 at [IRS.gov/pub/irs-irbs/irb01-51.pdf](https://www.irs.gov/pub/irs-irbs/irb01-51.pdf).

Exclusions for City Qualified nonpersonal use vehicles. 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 isn't likely to use more than minimally for personal purposes because of its design. Qualified nonpersonal use vehicles generally include all of the following vehicles.

- **Clearly marked, through painted insignia or words, police, fire, and public safety vehicles.**
- **Unmarked vehicles used by law enforcement officers if the use is officially authorized.**

All City Police vehicles exclude under this rule - even unmarked if officially authorized.

- 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.**

All trucks over 14,000 GVW used by an employee would be exempt under this rule

- 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. **none provided by city to an employee**

- 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. **all of these vehicles would be double covered under the 14,000 GVW rule -**

See Regulations section 1.274-5(k) for the definition of qualified moving van and qualified specialized utility repair truck.

Two pronged test 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 isn't 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.

Must be **permanently marked** **AND** meet test 1 or 2 below

1. It is equipped with at least one of the following items.

1. A hydraulic lift gate.
2. Permanent tanks or drums.
3. Permanent side boards or panels that materially raise the level of the sides of the truck bed.
4. Other heavy equipment (such as an electric generator, welder, boom, or crane used to tow automobiles and other vehicles).

Test 1 is one of the 4 equipment options

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.** **Any on call specialty trucks - City trucks under this category would probably also qualify under the 14,000 GVW rule**

Test 2 requires specialty design or significant modification

City owns no Vans 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 isn't 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.

The end of the exclusions from applying the fringe benefit rules to employer owned vehicles. We have vehicles that are being provided to city employees that should be taxed as fringe benefits to the employee.

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This is the general rule - Fair Market Value is most easily determined by method 4, otherwise the city would have to keep actual cost for each vehicle; including gas, maintenance, depreciation, insurance, etc. -

Method 1 **General Valuation Rule**

You must use the general valuation rule to determine the value of most fringe benefits. Under this rule, the value of a fringe benefit is its fair market value.

Fair market value. The fair market value (FMV) of a fringe benefit is the amount an employee would have to pay a third party in an arm's-length transaction to buy or lease the benefit. Determine this amount on the basis of all the facts and circumstances.

Neither the amount the employee considers to be the value of the fringe benefit nor the cost you incur to provide the benefit determines its FMV.

Employer-provided vehicles. In general, the FMV of an employer-provided vehicle is the amount the employee would have to pay a third party to lease the same or similar vehicle on the same or comparable terms in the geographic area where the employee uses the vehicle. A comparable lease term would be the amount of time the vehicle is available for the employee's use, such as a 1-year period.

Don't determine the FMV by multiplying a cents-per-mile rate times the number of miles driven unless the employee can prove the vehicle could have been leased on a cents-per-mile basis.

Method 2 **Cents-Per-Mile Rule**

I don't think this method applies to any of the employees and vehicles in question

Can City prove cents per mile lease value? If not, cannot use this method

Under this rule, you determine the value of a vehicle you provide to an employee for personal use by multiplying the standard mileage rate by the total miles the employee drives the vehicle for personal purposes. Personal use is any use of the vehicle other than use in your trade or business. This amount must be included in the employee's wages or reimbursed by the employee. For 2017, the standard mileage rate is 53.5 cents per mile.

Must keep a contemporaneous log if you qualify for this method

You can use the cents-per-mile rule if either of the following requirements is met.

- You reasonably expect the vehicle to be regularly used in your trade or business throughout the calendar year (or for a shorter period during which you own or lease it).
- The vehicle meets the mileage test.



Maximum automobile value. You can't use the cents-per-mile rule for an automobile (any four-wheeled vehicle, such as a car, pickup truck, or van) if its value when you first make it available to any employee for personal use is more than an amount determined by the IRS as the maximum automobile value for the year. For example, you can't use the cents-per-mile rule for an automobile that you first made available to an employee in 2016 if its value at that time exceeded \$15,900 for a passenger automobile or \$17,700 for a truck or van. The maximum automobile value for 2017 will be published in a notice in the Internal Revenue Bulletin early in 2017. If you and the employee own or lease the automobile together, see Regulations sections 1.61-21(e)(1)(iii)(B) and (C).

Vehicle. For the cents-per-mile rule, a vehicle is any motorized wheeled vehicle, including an automobile, manufactured primarily for use on public streets, roads, and highways.

Regular use in your trade or business. A vehicle is regularly used in your trade or business if at least one of the following conditions is met.

- At least 50% of the vehicle's total annual mileage is for your trade or business.
- You sponsor a commuting pool that generally uses the vehicle each workday to drive at least three employees to and from work.

All city trucks in question are used only for one person commutes

This rule would exclude most of the City's Trucks used to commute

- The vehicle is regularly used in your trade or business on the basis of all of the facts and circumstances. Infrequent business use of the vehicle, such as for occasional trips to the airport or between your multiple business premises, isn't regular use of the vehicle in your trade or business.

For cents per mile valuation

Mileage test. A vehicle meets the mileage test for a calendar year if both of the following requirements are met.

- **The vehicle is actually driven at least 10,000 miles during the year.** If you own or lease the vehicle only part of the year, reduce the 10,000-mile requirement proportionately.
- The vehicle is used during the year primarily by employees. Consider the vehicle used primarily by employees if they use it consistently for commuting. Don't treat the use of the vehicle by another individual whose use would be taxed to the employee as use by the employee. **The vehicles in question are not shared.**

For example, if only one employee uses a vehicle during the calendar year and that employee drives the vehicle at least 10,000 miles in that year, the vehicle meets the mileage test even if all miles driven by the employee are personal.

Consistency requirements. If you use the cents-per-mile rule, the following requirements apply.

- You must begin using the cents-per-mile rule on the first day you make the vehicle available to any employee for personal use. However, if you use the commuting rule (discussed later) when you first make the vehicle available to any employee for personal use, you can change to the cents-per-mile rule on the first day for which you don't use the commuting rule.
- You must use the cents-per-mile rule for all later years in which you make the vehicle available to any employee and the vehicle qualifies, except that you can use the commuting rule for any year during which use of the vehicle qualifies under the commuting rules. However, if the vehicle doesn't qualify for the cents-per-mile rule during a later year, you can use for that year and thereafter any other rule for which the vehicle then qualifies.
- You must continue to use the cents-per-mile rule if you provide a replacement vehicle to the employee (and the vehicle qualifies for the use of this rule) and your primary reason for the replacement is to reduce federal taxes.

Items included in cents-per-mile rate. The cents-per-mile rate includes the value of maintenance and insurance for the vehicle. Don't reduce the rate by the value of any service included in the rate that you didn't provide. You can take into account the services actually provided for the vehicle by using the [General Valuation Rule](#), earlier.

For miles driven in the United States, its territories and possessions, Canada, and Mexico, the cents-per-mile rate includes the value of fuel you provide. If you don't provide fuel, you can reduce the rate by no more than 5.5 cents.

For special rules that apply to fuel you provide for miles driven outside the United States, Canada, and Mexico, see Regulations section 1.61-21(e)(3)(ii)(B).

The value of any other service you provide for a vehicle isn't included in the cents-per-mile rate. Use the general valuation rule to value these services.

Method 3

Commuting Rule

This would cover vehicles the City requires the employee to take home for the benefit of the City for call out purposes.

Under this rule, you determine the value of a vehicle you provide to an employee for commuting use by multiplying each one-way commute (that is, from home to work or from work to home) by \$1.50. If more than one employee commutes in the vehicle, this value applies to each employee. This amount must be included in the employee's wages or reimbursed by the employee.

You can use the commuting rule if all the following requirements are met.

- **You provide the vehicle to an employee for use in your trade or business and, for ^{*}bona fide noncompensatory business reasons, you require the employee to commute in the vehicle. You will be treated as if you had met this requirement if the vehicle is generally used each workday to carry at least three employees to and from work in an employer-sponsored commuting pool.**
- You establish a written policy under which you don't allow the employee to use the vehicle for personal purposes other than for commuting or de minimis personal use (such as a stop for a personal errand on the way between a business delivery and the employee's home). Personal use of a vehicle is all use that isn't for your trade or business.
- The employee doesn't use the vehicle for personal purposes other than commuting and de minimis personal use.
- If this vehicle is an automobile (any four-wheeled vehicle, such as a car, pickup truck, or van), the employee who uses it for commuting isn't a control employee. See [Control employee](#), later.

I think those who the city **REQUIRES** to take a vehicle home **FOR THE BENEFIT OF THE CITY** would fit this category - Otherwise the vehicle is in reality a compensatory fringe benefit to the employee.

* bona fide noncompensatory business reasons means that it is for the benefit of the City and not for the benefit of the employee

Vehicle. For this rule, a vehicle is any motorized wheeled vehicle, including an automobile manufactured primarily for use on public streets, roads, and highways.

Control employee. A control employee of a nongovernment employer for 2017 is generally any of the following employees.

- A board or shareholder-appointed, confirmed, or elected officer whose pay is \$105,000 or more
- A director.
- An employee whose pay is \$215,000 or more.
- An employee who owns a 1% or more equity, capital, or profits interest in your business.

Salary Table No. 2017-EX
Rates of Basic Pay for the Executive Schedule (EX)

Effective January 2017

Level	Rate
Level I	\$207,800
Level II	\$187,000
Level III	\$172,100
Level IV	\$161,900
Level V	\$151,700

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. See the Office of Personnel Management website at opm.gov/policy-data-oversight/pay-leave/salaries-wages/ for 2017 compensation information.
- An elected official.

Highly compensated employee alternative. Instead of using the preceding definition, you can choose to define a control employee as any highly compensated employee. A highly compensated employee for 2017 is an employee who meets either of the following tests. **The city would not choose this definition.**

1. The employee was a 5% owner at any time during the year or the preceding year.
2. The employee received more than \$120,000 in pay for the preceding year.

You can choose to ignore test (2) if the employee wasn't also in the top 20% of employees when ranked by pay for the preceding year.

Lease Value Rule

This valuation method is appropriate for most of the vehicles and employees in question. It is much easier to apply than the General Valuation Rule (Method 1)

Under this rule, you determine the value of an automobile you provide to an employee by using its annual lease value. For an automobile provided only part of the year, use either its prorated annual lease value or its daily lease value.

If the automobile is used by the employee in your business, you generally reduce the lease value by the amount that is excluded from the employee's wages as a working condition benefit. In order to do this, the employee must account to the employer for the business use. This is done by substantiating the usage (mileage, for example), the time and place of the travel, and the business purpose of the travel. Written records made at the time of each business use are the best evidence. Any use of a company-provided vehicle that isn't substantiated as business use is included in income. The working condition benefit is the amount that would be an allowable business expense deduction for the employee if the employee paid for the use of the vehicle. However, you can choose to include the entire lease value in the employee's wages. See [Vehicle allocation rules](#) under *Working Condition Benefit* in section 2.

Automobile. For this rule, an automobile is any four-wheeled vehicle (such as a car, pickup truck, or van) manufactured primarily for use on public streets, roads, and highways.

Consistency requirements. If you use the lease value rule, the following requirements apply.

1. You must begin using this rule on the first day you make the automobile available to any employee for personal use. However, the following exceptions apply.
 1. If you use the commuting rule (discussed earlier in this section) when you first make the automobile available to any employee for personal use, you can change to the lease value rule on the first day for which you don't use the commuting rule.
 2. If you use the cents-per-mile rule (discussed earlier in this section) when you first make the automobile available to any employee for personal use, you can change to the lease value rule on the first day on which the automobile no longer qualifies for the cents-per-mile rule.
2. You must use this rule for all later years in which you make the automobile available to any employee, except that you can use the commuting rule for any year during which use of the automobile qualifies.

Still under the commuting rule.

None of the employees are control employees

Method 4

3. You must continue to use this rule if you provide a replacement automobile to the employee and your primary reason for the replacement is to reduce federal taxes.

Annual Lease Value

Generally, you figure the annual lease value of an automobile as follows.

1. Determine the FMV of the automobile on the first date it is available to any employee for personal use.
2. Using Table 3-1, read down column (1) until you come to the dollar range within which the FMV of the automobile falls. Then read across to column (2) to find the annual lease value.
3. Multiply the annual lease value by the percentage of personal miles out of total miles driven by the employee.

Table 3-1. Annual Lease Value Table

(1) Automobile FMV	(2) Annual Lease
\$0 to 999	\$ 600
1,000 to 1,999	850
2,000 to 2,999	1,100
3,000 to 3,999	1,350
4,000 to 4,999	1,600
5,000 to 5,999	1,850
6,000 to 6,999	2,100
7,000 to 7,999	2,350
8,000 to 8,999	2,600
9,000 to 9,999	2,850
10,000 to 10,999	3,100
11,000 to 11,999	3,350
12,000 to 12,999	3,600
13,000 to 13,999	3,850
14,000 to 14,999	4,100
15,000 to 15,999	4,350
16,000 to 16,999	4,600
17,000 to 17,999	4,850
18,000 to 18,999	5,100
19,000 to 19,999	5,350
20,000 to 20,999	5,600
21,000 to 21,999	5,850
22,000 to 22,999	6,100
23,000 to 23,999	6,350
24,000 to 24,999	6,600
25,000 to 25,999	6,850
26,000 to 27,999	7,250
28,000 to 29,999	7,750
30,000 to 31,999	8,250
32,000 to 33,999	8,750
34,000 to 35,999	9,250

(1) Automobile FMV	(2) Annual Lease
36,000 to 37,999	9,750
38,000 to 39,999	10,250
40,000 to 41,999	10,750
42,000 to 43,999	11,250
44,000 to 45,999	11,750
46,000 to 47,999	12,250
48,000 to 49,999	12,750
50,000 to 51,999	13,250
52,000 to 53,999	13,750
54,000 to 55,999	14,250
56,000 to 57,999	14,750
58,000 to 59,999	15,250

For automobiles with an FMV of more than \$59,999, the annual lease value equals $(0.25 \times \text{the FMV of the automobile}) + \500 .

FMV. The FMV of an automobile is the amount a person would pay to buy it from a third party in an arm's-length transaction in the area in which the automobile is bought or leased. That amount includes all purchase expenses, such as sales tax and title fees.

If you have 20 or more automobiles, see Regulations section 1.61-21(d)(5)(v). If you and the employee own or lease the automobile together, see Regulations section 1.61-21(d)(2)(ii).

You don't have to include the value of a telephone or any specialized equipment added to, or carried in, the automobile if the equipment is necessary for your business. However, include the value of specialized equipment if the employee to whom the automobile is available uses the specialized equipment in a trade or business other than yours.

Neither the amount the employee considers to be the value of the benefit nor your cost for either buying or leasing the automobile determines its FMV. However, see *Safe-harbor value* next.

Safe-harbor value. You may be able to use a safe-harbor value as the FMV.

For an automobile you bought at arm's length, the safe-harbor value is your cost, including sales tax, title, and other purchase expenses. This method isn't available for an automobile you manufactured.

For an automobile you lease, you can use any of the following as the safe-harbor value.

- The manufacturer's invoice price (including options) plus 4%.
- The manufacturer's suggested retail price minus 8% (including sales tax, title, and other expenses of purchase).
- The retail value of the automobile reported by a nationally recognized pricing source if that retail value is reasonable for the automobile.

Items included in annual lease value table. Each annual lease value in the table includes the value of maintenance and insurance for the automobile. Don't reduce the annual lease value by the value of any of these services that you didn't provide. For example, don't reduce the annual lease value by the value of a maintenance service contract or insurance you didn't provide. You can take into account the services actually provided for the automobile by using the general valuation rule discussed earlier.

Items not included. The annual lease value doesn't include the value of fuel you provide to an employee for personal use, regardless of whether you provide it, reimburse its cost, or have it charged to you. You must include the value of the fuel separately in the employee's wages. You can value fuel you provided at FMV or at 5.5 cents per mile for all miles driven by the employee. However, you can't value at 5.5 cents per mile fuel you provide for miles driven outside the United States (including its possessions and territories), Canada, and Mexico.

If you reimburse an employee for the cost of fuel, or have it charged to you, you generally value the fuel at the amount you reimburse, or the amount charged to you if it was bought at arm's length.

If you have 20 or more automobiles, see Regulations section 1.61-21(d)(3)(ii)(D).

If you provide any service other than maintenance and insurance for an automobile, you must add the FMV of that service to the annual lease value of the automobile to figure the value of the benefit.

4-year lease term. The annual lease values in the table are based on a 4-year lease term. These values will generally stay the same for the period that begins with the first date you use this rule for the automobile and ends on December 31 of the fourth full calendar year following that date.

Figure the annual lease value for each later 4-year period by determining the FMV of the automobile on January 1 of the first year of the later 4-year period and selecting the amount in column (2) of the table that corresponds to the appropriate dollar range in column (1).

Using the special accounting rule. If you use the special accounting rule for fringe benefits discussed in section 4, you can figure the annual lease value for each later 4-year period at the beginning of the special accounting period that starts immediately before the January 1 date described in the previous paragraph.

For example, assume that you use the special accounting rule and that, beginning on November 1, 2016, the special accounting period is November 1 to October 31. You elected to use the lease value rule as of January 1, 2017. You can refigure the annual lease value on November 1, 2020, rather than on January 1, 2021.

Transferring an automobile from one employee to another. Unless the primary purpose of the transfer is to reduce federal taxes, you can refigure the annual lease value based on the FMV of the automobile on January 1 of the calendar year of transfer.

However, if you use the special accounting rule for fringe benefits discussed in section 4, you can refigure the annual lease value (based on the FMV of the automobile) at the beginning of the special accounting period in which the transfer occurs.

Prorated Annual Lease Value

If you provide an automobile to an employee for a continuous period of 30 or more days but less than an entire calendar year, you can prorate the annual lease value. Figure the prorated annual lease value by multiplying the annual lease value by a fraction, using the number of days of availability as the numerator and 365 as the denominator.

If you provide an automobile continuously for at least 30 days, but the period covers 2 calendar years (or 2 special accounting periods if you're using the special accounting rule for fringe benefits discussed in section 4), you can use the prorated annual lease value or the daily lease value.

If you have 20 or more automobiles, see Regulations section 1.61-21(d)(6).

If an automobile is unavailable to the employee because of his or her personal reasons (for example, if the employee is on vacation), you can't take into account the periods of unavailability when you use a prorated annual lease value.



You can't use a prorated annual lease value if the reduction of federal tax is the main reason the automobile is unavailable.

Daily Lease Value

If you provide an automobile to an employee for a continuous period of less than 30 days, use the daily lease value to figure its value. Figure the daily lease value by multiplying the annual lease value by a fraction, using four times the number of days of availability as the numerator and 365 as the denominator.

However, you can apply a prorated annual lease value for a period of continuous availability of less than 30 days by treating the automobile as if it had been available for 30 days. Use a prorated annual lease value if it would result in a lower valuation than applying the daily lease value to the shorter period of availability.

Method 5

Unsafe Conditions Commuting Rule

Under this rule, the value of commuting transportation you provide to a qualified employee solely because of unsafe conditions is \$1.50 for a one-way commute (that is, from home to work or from work to home). This amount must be included in the employee's wages or reimbursed by the employee.

You can use the unsafe conditions commuting rule for qualified employees **if all of the following requirements are met.**

- The employee would ordinarily walk or use public transportation for commuting. **Does not apply to employees in question**
- You have a written policy under which you don't provide the transportation for personal purposes other than commuting because of unsafe conditions.

- The employee doesn't use the transportation for personal purposes other than commuting because of unsafe conditions.

These requirements must be met on a trip-by-trip basis.

Commuting transportation. This is transportation to or from work using any motorized wheeled vehicle (including an automobile) manufactured for use on public streets, roads, and highways. You or the employee must buy the transportation from a party that isn't related to you. If the employee buys it, you must reimburse the employee for its cost (for example, cab fare) under a bona fide reimbursement arrangement.

Qualified employee. A qualified employee for 2017 is one who:

- Performs services during the year;
- Is paid on an hourly basis;
- Isn't claimed under section 213(a)(1) of the Fair Labor Standards Act (FLSA) of 1938 (as amended) to be exempt from the minimum wage and maximum hour provisions;
- Is within a classification for which you actually pay, or have specified in writing that you will pay, overtime pay of at least one and one-half times the regular rate provided in section 207 of FLSA; and
- Received pay of not more than \$120,000 during 2016.

However, an employee isn't considered a qualified employee if you don't comply with the recordkeeping requirements concerning the employee's wages, hours, and other conditions and practices of employment under section 211(c) of FLSA and the related regulations.

Unsafe conditions. Unsafe conditions exist if, under the facts and circumstances, a reasonable person would consider it unsafe for the employee to walk or use public transportation at the time of day the employee must commute. One factor indicating whether it is unsafe is the history of crime in the geographic area surrounding the employee's workplace or home at the time of day the employee commutes.

4. Rules for Withholding, Depositing, and Reporting

Use the following guidelines for withholding, depositing, and reporting taxable noncash fringe benefits. For additional information on how to withhold on fringe benefits, see section 5 in Pub. 15.

Valuation of fringe benefits. Generally, you must determine the value of noncash fringe benefits no later than January 31 of the next year. Before January 31, you may reasonably estimate the value of the fringe benefits for purposes of withholding and depositing on time.