

*The County of Chester
Office of the Controller
Internal Audit Department*



*Audit Report
County Vehicles
As of June 30, 2008*

Valentino F. DiGiorgio, III, Controller

Introduction

At the request of the Controller, Internal Audit has reviewed and evaluated the controls in place over the usage of County provided vehicles. The review was inclusive of all departments that were assigned vehicles as of 6/30/08. The purpose of the review was to determine if vehicles are being used for both business and personal purposes and whether adequate records are being maintained to fulfill IRS substantiation requirements.

IRS Fringe Benefit Guidelines

An employer-provided vehicle which is used 100% for business purposes has no tax consequence. Business use **does not** include commuting. Records should be maintained to substantiate that all vehicle use was for business.

If an employer-provided vehicle is used for both business and personal purposes, substantiated business use is not taxable to the employee. Personal use is taxable to the employee's wages.

Note: If records are not provided by the employee, the value of **all** use of the automobile must be considered as wages to the employee. (*Exceptions to the recordkeeping requirements apply in certain situations involving the use of qualified non-personal use vehicles discussed later in this report.*)

Executive Summary

Our review identified 7 departments, (Bail Agency, District Attorney, Detectives, Domestic Relations, Emergency Services, Public Defender, and Sheriff) in which County provided vehicles are assigned to specific individuals who use them for their intended business purpose **and** for commuting between their County work station and home.

Three of these departments include *Qualified Non-personal Use Vehicles*. IRS guidelines specify that "the use of a qualified non-personal-use vehicle, **including commuting**, is excludable to the employee; and recordkeeping and substantiation by the employee are not required (by the IRS)." A qualified non-personal vehicle is any vehicle that the employee is not likely to use more than minimally for personal purposes because of its design. These vehicles include the following:

- Clearly marked police and fire vehicles
- Unmarked vehicles used by law enforcement officers if the use is officially authorized
- Clearly marked Public Safety Officer Vehicle (effective June 6, 2008)

A clearly marked police or fire vehicle qualifies only if the following apply:

1. The employee must always be on call
2. The employee must be required by the County to use the vehicle for commuting
3. The employer must prohibit personal use (other than commuting) for travel outside of the officer or firefighter's jurisdiction.

Unmarked law enforcement vehicles are qualified non-personal use vehicles only if the following apply:

1. The employer must officially authorize personal use
2. Personal use must be incident to use for law enforcement purposes
3. The employer must be a governmental unit responsible for prevention or investigation of crime.

The vehicle must be used by a *full-time law enforcement officer* – **an officer who is authorized by law to carry firearms, execute search warrants, to make arrests, and who regularly carries firearms except when it is not possible to do so because of the requirements of undercover work. (Each of these criteria must be met.)**

Effective June 6, 2008, the IRS added “public safety officer” vehicles to the qualified non-personal use vehicle provision. This means that any Federal, state or local government employee who drives a clearly marked government owned or leased vehicle in the course of his or her duties and meets the same 3 requirements listed above for clearly marked police and fire vehicles, is exempt from substantiation requirements and any commuting mileage is deemed non-taxable.

A public safety officer vehicle is “clearly marked” if, through painted insignia or words, it is readily apparent that the vehicle is a public safety officer vehicle.

Audit Findings

Bail Agency

Internal Audit has determined that five Bail Agency employees have been assigned a County vehicle. These vehicles are used for their intended business purpose and for the employees' daily commute. The vehicles are all fueled at the County's expense. The individuals maintain a vehicle log which is submitted to the Administrator on a weekly basis. The department has a written policy related to the use and operation of these assigned vehicles.

Recommendation

Based on the IRS definition, none of the assigned drivers meet the full criteria of a *law enforcement officer* and as such, their automobiles do not qualify for the non-personal use vehicle exception.

Although Internal Audit recognizes the need for the employees to have the vehicles available to them at all times due to "on-call" requirements and their need to ensure adherence to conditions of bail throughout the day, normal commute between the home and the County workstation cannot be exempt from taxable status. As a result, each individual's daily commute should be considered as wages to the employee. Drivers should also be required to meet substantiation requirements by maintaining records that itemize business and personal use each year.

Domestic Relations

Internal Audit has determined that five Domestic Relations employees (the director and four investigators) have been assigned a County vehicle. These vehicles are used for their intended business purpose and for the employees' daily commute. The vehicles are fueled at the County's expense. The individuals do not maintain a vehicle log. The department does not have a written policy related to the use and operation of these assigned vehicles.

Recommendation

Based on the IRS definition, none of the assigned drivers meet the full criteria of a *law enforcement officer* and as such, their automobiles do not qualify for the non-personal use vehicle exception.

Although Internal Audit recognizes the need for the investigators to have the vehicles available to them at all times due to "on-call" requirements, normal commute between the home and the County workstation cannot be exempt from taxable status. As a result, each

individual's daily commute should be considered as wages to the employee. Drivers should also be required to meet substantiation requirements by maintaining records that itemize business and personal use each year.

Internal Audit suggests that the Commissioners evaluate the intended business use for the director's vehicle and, if the automobile is deemed necessary, he too would be required to maintain records itemizing his business and personal use each year. All personal use, including his daily commute, will also be considered taxable wages.

Additionally, since one of the investigators assigned a County vehicle is also an acting constable, this individual should be required to maintain specific records to ensure that the county vehicle assigned him is not used for constable services. Cost sheets submitted to the Office of the Controller for constable services include mileage reimbursement. Mileage reimbursement is not permissible on county provided vehicles.

District Attorney / Detectives

Internal Audit has determined that all vehicles assigned to the District Attorney and County detectives are used for their intended business purpose and for the employees' daily commute. These vehicles are all fueled at the County's expense. The individuals do not maintain a vehicle log. The department does not have a written policy related to the use and operation of these assigned vehicles. However, guidelines specific to the use of the detectives' vehicles are included in their contract of employment.

Recommendation

The District Attorney and the County detectives all meet the full criteria of a *law enforcement officer*. As such, automobiles assigned to these individuals qualify for the non-personal use vehicle exception and all mileage (including their daily commute) is considered business related. The IRS does not require in these instances that records be maintained to substantiate business use.

Internal Audit has no recommendations at this time.

Emergency Services

Internal Audit has determined that two EMS employees have been assigned a County vehicle. These vehicles are used for their intended business purpose and for the employees' daily commute. The vehicles are fueled at the County's expense. These 2 specific individuals do not maintain a vehicle log. The department has a written policy related to the use and operation of County provided vehicles. This policy only requires the use of a log for the department's other EMS vehicles.

Recommendation

The automobile assigned to the Fire Marshall is clearly marked through painted insignia making it readily identifiable as a fire vehicle. As such, it qualifies as a non-personal use vehicle and all mileage associated with this vehicle is considered business related. The IRS does not require in these instances that records be maintained to substantiate business use.

The automobile assigned to the EMS Director however is not clearly marked. IRS regulations stipulate that “a marking on a license plate is not a clear marking” for purpose of identifying a police or fire vehicle. As such, this automobile cannot be categorized as a non-personal use vehicle and the EMS Director’s daily commute should be considered taxable wages. The employee should also be required to meet substantiation requirements by maintaining records that itemize business and personal use each year.

Public Defender

Internal Audit has determined that two Public Defender employees have been assigned a County vehicle. These vehicles are used for their intended business purpose and for the employees’ daily commute. The vehicles are fueled at the County’s expense. These individuals do not maintain a vehicle log. The department does not have a written policy related to the use and operation of County provided vehicles.

Recommendation

The two investigators do not meet the full criteria of *law enforcement officers*, since they are not authorized to carry firearms, and execute search warrants, and make arrests. As such, their automobiles do not qualify for the non-personal use vehicle exception.

Although Internal Audit recognizes the need for the investigators to have the vehicles available to them at all times due to “on-call” requirements, and the execution of subpoenas, normal commute between the home and the County workstation cannot be exempt from taxable status. As a result, each individual’s daily commute should be considered as wages to the employee. Drivers should also be required to meet substantiation requirements by maintaining records that itemize business and personal use each year.

Sheriff

Internal Audit has determined that four employees of the Office of the Sheriff (the sheriff, chief deputy and two K-9 units) have been assigned a County vehicle. These vehicles are used for their intended business purpose and for the employees' daily commute. The vehicles are fueled at the County's expense. These 4 specific individuals do not maintain a vehicle log. The department has a written policy related to the use and operation of County provided vehicles. This policy only requires the use of a log for the department's other vehicles.

Recommendation

The four employees of the Office of the Sheriff meet the definition of *public safety officer*, however 2 of the vehicles assigned to the Sheriff and Chief Deputy are unmarked and as a result do not meet non-personal use vehicle requirements. Until these vehicles display the County's painted insignia and wording identifying them as "public safety officer" automobiles, the Sheriff and Chief Deputy's daily commute and any other personal mileage should be considered taxable wages. These two individuals should also be required to meet substantiation requirements by maintaining records that itemize business and personal use each year.

It is important to note that the Office of the Sheriff also utilizes at least 3 other vehicles that are not clearly marked, identifying them as public safety officer vehicles. We strongly urge that all Sheriff department vehicles display the County's painted insignia and proper wording in order to qualify them as non-personal use vehicles.

Overall Recommendations

The County of Chester needs to adopt and implement a uniform vehicle policy for County-provided automobiles that are used 100% for business purposes as well as for vehicles that are used for both business and personal purposes. The policy should comply with IRS mandates. At a minimum, drivers should be required to record all travel in a log which would identify business and/or personal uses. Business use does not include commuting except in the case of qualified non-personal vehicles which were defined earlier in this report.

As part of the policy, we recommend that the completed travel logs be submitted to the Office of the Controller on a monthly basis. (Internal Audit has attached a sample vehicle travel log form for consideration.) These logs must be completed and submitted even for those vehicles that have been used 100% for business purposes. The only exception to this requirement involves those vehicles that qualify as non-personal use vehicles – i.e., the District Attorney, Fire Marshall, Sheriff (marked vehicles only) and County Detectives.

The Office of the Controller will review the vehicle travel logs and determine (based on the IRS Automobile Lease Valuation Rule) the total taxable wages to be added to the applicable employees. The amount will be included in the employee's gross wages the following month as a fringe benefit and the applicable federal and FICA taxes will be deducted.

