COUNTY OF WINNEBAGO

Office of the County Auditor

WILLIAM D. CROWLEY
County Auditor
Phone (815) 319-4206
bcrowley@wincoil.us

County Administration Building
404 Elm Street, Room 201
Rockford, Illinois 61101

December 5th, 2017

To: Frank Haney, Winnebago County Board Chairman

From: William D. Crowley, Winnebago County Auditor

Re: Personal Use of County-Owned Vehicles and Lack of Vehicle Policy

As the independently elected Winnebago County Auditor, I believe part of my duty is to identify potential violations of County Ordinance and to raise issues that individuals lacking independence may be uncomfortable discussing. One of these issues is the use of County-owned vehicles by employees and elected officials. In recent months, several County employees have expressed concern to my office that County-owned vehicles are being used for personal use including transportation during vacations, travel to political fundraisers and other miscellaneous events or gatherings where alcohol is served. A review of the Exxon Mobil gas card statement appears to potentially but not definitively support this concern.

Regardless of the validity of the aforementioned concerns, the Winnebago County Board approved guidance on this issue is conflicting and is in need of clarification. For example, County Ordinance Sec. 62-13. – County property states "County vehicles, equipment, supplies, facilities or tools shall not be used for private or unauthorized purposes." However, County Resolution 2016 CR 069 (attached) sets the County Board Chairman's salary at "$95,658 Plus Vehicle" for the duration of the 2016-2020 term. A vehicle mentioned in this particular context would seem to indicate a form of compensation which would also indicate a certain amount of allowable personal use. I am unable to locate any further applicable guidance regarding the term "Plus Vehicle".

In my view, these concerns are part of a bigger issue in that Winnebago County is lacking a comprehensive and codified vehicle policy. In several County departments employees regularly operate a County-owned vehicle including transportation to and from work. Additionally, many employees have possession of a County gas credit card. With no codified policy in place, my office has little basis to perform an internal audit. Therefore, I am recommending the formation of a comprehensive and codified vehicle policy to address certain issues but not limited to:

- Criteria and approval process of obtaining a County-owned vehicle
- Procedure for obtaining and documenting usage of gas cards
- Acceptable utilization of County-owned vehicles including defining the term "Plus Vehicle" as noted above
- Vehicle specifications such as colors, equipment, logos and license plates.
- Fleet management such as maintenance, replacements and disposals

Additionally, as indicated in the attached IRS Quick Reference Guide for Public Employers, the personal use of a government-owned vehicle, which includes the value of commuting, is generally a taxable fringe benefit. As previously indicated, there are currently several County employees that utilize a County-owned vehicle for transportation to and from work. In many cases, with the primary exception being law enforcement related use, the value of this benefit should be considered wages, which is subject to all federal and state payroll taxes, and should be included on employee 2017 W-2s.

Please let me know if you have any questions or comments at 815-319-4206 or bcrowley@wincoil.us

Cc: Members of the County Board

STATE OF ILLINOIS, } ss.
COUNTY OF WINNEBAGO }

I, **MARGIE M. MULLINS,** ***County Clerk in and for said County, in the State aforesaid, do hereby certify that I have compared the foregoing attached copy of:***

RESOLUTION AFFIXING COMPENSATION AND OTER BENEFITS FOR CERTAIN ELECTED COUNTY OFFICIALS

with the original document which is on file in my office; and found it to be a true, perfect and complete copy of the original document

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said County, at my office in the City of Rockford, in said County,

this **27TH DAY OF MAY, 2016.**

MARGIE M. MULLINS, Winnebago County Clerk

MARGIE M. MULLINS ILLINOIS WINNEBAGO COUNTY CLERK

BY: Angela Reina ***Deputy County Clerk***

RESOLUTION
of the
COUNTY BOARD OF THE COUNTY OF WINNEBAGO, ILLINOIS

Submitted by: Operations and Administrative Committee and Finance Committee

2016 CR 069

RESOLUTION AFFIXING COMPENSATION AND OTHER BENEFITS FOR CERTAIN ELECTED COUNTY OFFICIALS

WHEREAS, the County Board of the County of Winnebago, Illinois is required to fix the salaries and other benefits to be paid to certain elected officials at least 180 days before the beginning of the term of those elected offices whose compensation is to be fixed; and,

WHEREAS, the term of office for the County Auditor, County Recorder, County Coroner, and County Board Chairman are scheduled to commence on December 1, 2016, and the County Board must fix the compensation for these officers on or before June 3, 2016; and,

WHEREAS, no officer may have his or her salary or other benefits increased or decreased during the term for which he or she is elected.

NOW, THEREFORE BE IT RESOLVED, by the County Board of the County of Winnebago, Illinois that the following schedule of salaries be, and the same is, hereby adopted:

COUNTY AUDITOR

December 1, 2016 – November 30, 2017	$81,284
December 1, 2017 – November 30, 2018	$81,284
December 1, 2018 – November 30, 2019	$81,284
December 1, 2019 – November 30, 2020	$81,284

COUNTY RECORDER

December 1, 2016 – November 30, 2017	$81,284
December 1, 2017 – November 30, 2018	$81,284
December 1, 2018 – November 30, 2019	$81,284
December 1, 2019 – November 30, 2020	$81,284

COUNTY CORONER

December 1, 2016 – November 30, 2017	$88,176 Plus Vehicle
December 1, 2017 – November 30, 2018	$88,176 Plus Vehicle
December 1, 2018 – November 30, 2019	$88,176 Plus Vehicle
December 1, 2019 – November 30, 2020	$88,176 Plus Vehicle

COUNTY BOARD CHAIRMAN

December 1, 2016 – November 30, 2017	$95,658 Plus Vehicle
December 1, 2017 – November 30, 2018	$95,658 Plus Vehicle
December 1, 2018 – November 30, 2019	$95,658 Plus Vehicle
December 1, 2019 – November 30, 2020	$95,658 Plus Vehicle

BE IT FURTHER RESOLVED, that the County Auditor, County Recorder, County Coroner, and County Board Chairman shall be eligible for any Health Plan and shall pay the same cost for individual, dependent and retiree health insurance coverage as County employees covered under AFSCME Local 473 Collective Bargaining Unit beginning in December 2016.

BE IT FURTHER RESOLVED, that this Resolution shall be in full force and effect immediately upon its adoption, and the compensation shall take effect upon commencement of office of the County Auditor, County Recorder, County Coroner, County Board Chairman, after the November 2016 general election.

BE IT FURTHER RESOLVED, that the Clerk of the County Board is hereby authorized to prepare and deliver certified copies of this Resolution to the County Auditor, County Recorder, County Coroner, and County Board Chairman.

February 2014

Quick Reference Guide for Public Employers

Office of Federal, State and Local Governments

Publication 5138 (2-2014) Catalog Number 66217H Department of the Treasury **Internal Revenue Service** www.irs.gov

Other Workers

Most other types of workers in a local government entity, including moderators, civil emergency directors, bus drivers, harbormasters, correction officers, fire chiefs, fire and ambulance workers, airport managers, summer aides, and librarians are generally considered employees, but in each case the common-law standards should be considered.

FRINGE BENEFITS

Fringe benefits include any compensation other than cash wages. The general rule is that the compensation is taxable; however, the Internal Revenue Code provides exclusions for numerous forms of noncash compensation provided to employees. Some of the common fringe benefit issues encountered by public employers are discussed below. For a more detailed discussion of fringe benefits, see Publication 15-B and Publication 5137, Fringe Benefit Guide.

Reimbursement for Expenses

In general, reimbursements or expenses paid by the employer on behalf of the employee, such as travel expenses, are taxable unless they are provided for allowable excluded benefits or expenses, and made under an *accountable plan*. For payments to be considered made under an accountable plan, the employees must:

- Incur the expenses in the performance of work;
- Adequately account for the expenses within a reasonable period of time; and
- Return any amounts in excess of expenses within a reasonable period of time.

If the accountable plan rules are met, no tax reporting is necessary. If they are not met, the reimbursements or advances are included in wages, and the employee may deduct allowable business expenses on his or her Form 1040.

De Minimis Fringe Benefits

De minimis fringe benefits are excludable from wages. A de minimis benefit is any property or service you provide to an employee that has so little value (taking into account how frequently you provide similar benefits to your employees) that accounting for it would be unreasonable or administratively impracticable. Cash or gift cards cannot be de minimis, except for occasional meal money or transportation fare. Common examples include small holiday gifts, occasional use of photocopiers, tickets, or personal use of an employer-provided cell phone.

For more information, see the Fringe Benefit Guide.

Government-Owned Vehicles

The personal use of a government-owned vehicle is generally a taxable fringe benefit. It may, however, be excludable as a de minimis benefit, discussed above. Personal use includes the value of commuting in a government-owned vehicle, even if the vehicle is taken home for the convenience of the employer (but see Commuting Valuation Rule, below). The value of the benefit must be included in wages, but withholding of income tax on the value of vehicle use is at the employer's option. Social security and Medicare withholding is required.

All of your employee's use of a *qualified nonpersonal use vehicle* qualifies as a working condition fringe. You can exclude the value of that use from employee income. 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 include:

- Clearly marked police, fire, and public safety officer vehicles. The employee must be on-call, required to commute in the vehicle, and be prohibited from personal travel outside the jurisdiction.
- Unmarked vehicles used by law enforcement officers. The officer must be authorized to carry a firearm, execute search warrants and make arrests.
- Qualified specialized utility repair truck
- 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 for 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.

All Other Employer-Provided Vehicles

If you provide an employee with a vehicle that does meet the qualified nonpersonal use criteria, the personal use of the vehicle is a taxable fringe benefit. It is the employer's responsibility to determine the actual value of this fringe benefit and to include the taxable portion in the employee's income.

Example: A town-owned pickup truck is marked with the town name. It is not a police, fire, or public safety vehicle, or other qualified nonpersonal use vehicle. The employee is usually allowed to take the vehicle home because he is "on call." The vehicle is not a qualified nonpersonal use vehicle, thus the commuting is a non-cash taxable fringe benefit.

Special Valuation Rules

There are three methods to determine the value of the vehicle provided to the employee:

1) Lease value rule
2) Cents-per-mile rule
3) Commuting valuation rule

1) Lease Value Rule

The lease value method may be used for any vehicle, and must be used if the conditions for using rule (2) or (3) are not met. It calculates the value of the benefit by determining the annual lease value of the vehicle, as follows:

- Determine the fair market value of the vehicle when first made available.
- Determine the annual lease value (ALV) from the table in Publication 15-B, which is
- based on a four-year lease term. This value will generally stay the same for each year. If the vehicle remains in service after four years, it must be revalued and the ALV recomputed.
- Multiply the annual lease value by the percentage of personal miles out of the total miles driven by the employee. This is the value of the taxable benefit.

2) Cents-Per-Mile Rule

To use the vehicle cents-per-mile rule, one of the following tests must be met:

- The employer reasonably expects the vehicle to be regularly used in the trade or business throughout the calendar year; or
- The mileage test is met.

A vehicle is considered “regularly used in the business” if:

- At least 50% or more of the total annual mileage each year is in the employer's business; or
- It is generally used each workday to transport at least three employees to and from work, in an employer sponsored commuting vehicle pool.

The mileage test is met if the vehicle is driven by employees at least 10,000 miles (personal and business) per year and use of the vehicle is primarily by employees.

The value of the personal use of a vehicle may be figured at 56 cents per mile for 2014 if the following conditions are met:

If you do not provide fuel, you can reduce the value of the personal use by up to 5.5 cents per mile.

To use the cents-per-mile rule, the vehicles cannot have a greater fair market value in the year placed in service than a maximum amount determined by the IRS for each year (for 2014, $16,000 for cars and $17,300 for trucks).

3) Commuting Valuation Rule

Under this rule, you determine the value of a vehicle you provide to an employee (other than a qualified nonpersonal use vehicle, discussed earlier) for commuting by valuing each one-way commute (home to work or work to home) at $1.50. If more than one employee commutes in the vehicle, this value applies to each employee. Unless the employee reimburses this amount to the employer, the amount is included in the employee's wages. This rule may be used if all of the following apply:

- You own or lease the vehicle and provide it to an employee to use in your business.
- For bona fide noncompensatory business reasons, you require the employee to commute in the vehicle.
- You establish a written policy allowing no personal use other than commuting or de minimis personal use (such as a stop for personal errand).
- Your employee does not use the vehicle for personal purposes other than commuting and de minimis personal use.
- The employee is not a government control employee. A government control employee is either (i) an elected official, or (ii) an employee whose pay is at least Federal Government Executive Level V ($147,200 in 2014).

Example: An employee takes a city vehicle home in order to avoid exposing it to harm. The vehicle has a city seal on the door and policy prohibits noncommuting personal use. If this is an infrequent occurrence (less than once a month) this may be excludable as a de minimis fringe benefit. If this is a frequent or regular occurrence, the commuting may be valued using the commuting rule. If the vehicle is not a qualified nonpersonal use vehicle as discussed earlier, and the employee drives it home, there is a taxable commuting benefit.

To conform to the accountable plan rules, employees using a vehicle for business purposes (regardless of which special valuation rule is used) should keep daily records of business miles by keeping a log showing the date, mileage, destination, business purpose, and personal use (including commuting) mileage.

Clothing Provided by the Employer

The value of work clothing provided by the employer is not taxable to the employee if:

- The employee must wear the clothing as a condition of employment; and
- The clothes are not suitable for everyday wear.

It is not enough that the employee wear distinctive clothing; the employer must specifically require the clothing as a working condition. Nor is the test met because the employee does not, in fact, wear the work clothes away from work. The clothing must not be suitable for taking the place of regular clothing However, a detective's suit jacket and related clothing, since they are suitable for everyday wear, do not qualify as a uniform and are taxable to the employee.