

Maximum Values For 2018 For Use With Vehicle Cents-Per-Mile and Fleet-Average Valuation Rules

Notice 2019-08

I. PURPOSE

This notice provides the 2018 maximum values for use with the vehicle cents-per-mile valuation rule under Treas. Reg. § 1.61-21(e) and the fleet-average valuation rule, which is an optional component of the automobile lease valuation rule under Treas. Reg. § 1.61-21(d). These values are adjusted annually for inflation. This notice also provides interim guidance on new procedures for calculating the inflation adjustments to the maximum values for use with the special valuation rules under Treas. Reg. § 1.61-21(d) and (e) using section 280F(d)(7), as modified by sections 11002 and 13202 of the Tax Cuts and Jobs Act, Pub. L. No. 115-97 (the “Act”). The Internal Revenue Service (IRS) and the Department of the Treasury (Treasury Department) anticipate that further guidance on these issues will be issued in the form of proposed regulations and expect that the regulations will be consistent with the rules set forth in this notice.

II. BACKGROUND

If an employer provides an employee with a vehicle that is available to the employee for personal use, the value of the personal use generally must be included in

the employee's income. Internal Revenue Code § 61; Treas. Reg. § 1.61-21.

For employer-provided vehicles made available to employees for personal use that meet the requirements of Treas. Reg. § 1.61-21(e)(1), generally the value of the personal use may be determined under the vehicle cents-per-mile valuation rule of Treas. Reg. § 1.61-21(e). However, Treas. Reg. § 1.61-21(e)(1)(iii)(A) provides that for a vehicle first made available after 1988 to any employee of the employer for personal use, the value of the personal use may not be determined under the vehicle cents-per-mile valuation rule for a calendar year if the fair market value of the vehicle (determined pursuant to Treas. Reg. § 1.61-21(d)(5)(i) through (iv)) on the first date the vehicle is made available to the employee exceeds the sum of the maximum recovery deductions allowable under section 280F(a) for a five-year period for an automobile first placed in service during that calendar year, as adjusted by section 280F(d)(7). The regulation additionally specifies that, with respect to a vehicle placed in service in or after 1989, the limitation on value consists of a base value of \$12,800 that is adjusted annually under section 280F(d)(7).

For employer-provided automobiles available to employees for personal use for an entire year, generally the value of the personal use may be determined under the automobile lease valuation rule of Treas. Reg. § 1.61-21(d). Under this valuation rule, the value of the personal use is the Annual Lease Value. Provided the requirements of Treas. Reg. § 1.61-21(d)(5)(v) are met, an employer with a fleet of 20 or more automobiles may use a fleet-average value for purposes of calculating the Annual Lease Values of the automobiles in the employer's fleet. The fleet-average value is the

average of the fair market values of all the automobiles in the fleet. However, Treas. Reg. § 1.61-21(d)(5)(v)(D) provides that for an automobile first made available after 1988 to an employee of the employer for personal use, the value of the personal use may not be determined under the fleet-average valuation rule for a calendar year if the fair market value of the automobile (determined pursuant to Treas. Reg. § 1.61-21(d)(5)(i) through (v)) on the first date the automobile is made available to the employee exceeds the base value of \$16,500, as adjusted annually for inflation pursuant to section 280F(d)(7).

Thus, the maximum values for applying the vehicle cents-per-mile and the fleet-average valuation rules reflect the automobile price inflation adjustment of section 280F(d)(7)(B). Prior to enactment of the Act, this price inflation amount for automobiles other than trucks and vans was calculated using the “new car” component of the Consumer Price Index (CPI) “automobile component.” Beginning in 2005, the IRS began to calculate the price inflation adjustment for trucks and vans separately using the “new truck” component of the CPI and continued using the “new car” component of the CPI for automobiles other than trucks and vans. See Rev. Proc. 2005-48, 2005-32 I.R.B. 271.

Section 11002(d)(8) of the Act amended section 280F(d)(7)(B) effective for tax years beginning after December 31, 2017. Pursuant to these amendments, the price inflation amount for automobiles (including trucks and vans) is calculated using both the CPI automobile component and the Chained Consumer Price Index for All Urban Consumers (C-CPI-U) automobile component. The C-CPI-U does not currently have

separate components for new cars and new trucks.

For owners of passenger automobiles, section 280F(a), as modified by section 13202(a)(1) of the Act, imposes dollar limitations on the depreciation deduction for the year the taxpayer places the passenger automobile in service and for each succeeding year. The amendments made by the Act substantially increased the maximum annual dollar limitations on the depreciation deductions for passenger automobiles. The new dollar limitations are based on the depreciation, over a five-year recovery period, of a passenger automobile with a cost of \$50,000 (formerly \$12,800).

III. GUIDANCE

Consistent with the substantial increase in the dollar limitations on depreciation deductions under section 280F(a), as modified by section 13202(a)(1) of the Act, the IRS and the Treasury Department intend to amend Treas. Reg. § 1.61-21(d) and (e) to incorporate a higher base value of \$50,000 as the maximum value for use of the vehicle cents-per-mile and fleet-average valuation rules effective for the 2018 calendar year. Further, the IRS and the Treasury Department intend that the regulations will be modified to provide that this \$50,000 base value will be adjusted annually using section 280F(d)(7) for 2019 and subsequent years. Consistent with this intention, in the interim:

- (1) The maximum value of an employer-provided vehicle first made available to employees for personal use in calendar year 2018 for which the vehicle cents-per-mile valuation rule provided under Treas. Reg. § 1.61-21(e) may be applicable is \$50,000.
- (2) The maximum value of an employer-provided automobile first made available

to employees for personal use in calendar year 2018 for which the fleet-average valuation rule provided under Treas. Reg. § 1.61-21(d) may be applicable is \$50,000.

For 2018 and 2019, due to the lack of data, the IRS and the Treasury Department will not publish separate maximum values for trucks and vans for use with the vehicle cents-per-mile and fleet-average valuation rules.

Employer-provided vehicles are noncash fringe benefits that fall within section 3501(b). Announcement 85-113, 1985-31 I.R.B. 31, provides guidelines for withholding, paying, and reporting employment tax on taxable noncash fringe benefits. Announcement 85-113 provides generally that taxpayers may rely on the guidelines in the announcement until the issuance of regulations that supersede the temporary and proposed regulations under section 3501(b). No regulations have been issued under section 3501(b) that supersede the announcement. Thus, Announcement 85-113 generally is applicable to current payments of noncash fringe benefits, including vehicles.

Section 1 of Announcement 85-113 allows payors of certain noncash fringe benefits to treat the benefits as paid on any day(s) during the year so long as they treat benefits provided in a calendar year as paid not later than December 31 of the calendar year. Section 5 of the announcement allows employers to treat certain benefits paid during the last two months of the year (or any shorter period) as paid during the subsequent calendar year.

Employers that wish to use the vehicle cents-per-mile rule or the fleet-average

value rule for 2018 based on the maximum values set forth in this notice may use the rules in Announcement 85-113 or the adjustment process under section 6413 or the refund claim process under section 6402 to correct any overpayment of federal employment taxes on these amounts (see the regulations under these sections, Rev. Rul. 2009-39, 2009-52 I.R.B. 951, section 13 of Publication 15 (Circular E), Employer's Tax Guide, and the Instructions for Form 941-X, Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund for information on these adjustment and refund claim processes).

IV. REQUEST FOR COMMENTS

Interested parties are invited to submit comments on this notice by February 19, 2019. Comments should include a reference to Notice 2019-08. Comments may be submitted electronically via the Federal eRulemaking Portal at www.regulations.gov (type IRS-2019-08 in the search field on the **regulations.gov** homepage to find this notice and submit comments). Alternatively, submissions may be sent to CC:PA:LPD:PR (Notice 2019-08), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions also may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (Notice 2019-08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20044. All comments submitted by the public in response to this notice will be available for public inspection and copying in their entirety.

V. DRAFTING INFORMATION

The principal author of this notice is Gabriel Minc of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice contact Mr. Minc at (202) 317-4774 (not a toll-free call).