



TaxNewsFlash

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Proposed regulations: Employer-provided vehicles, fleet average and cents-per-mile valuation rules

The U.S. Treasury Department and IRS today released for publication in the Federal Register proposed regulations (REG-101378-19) regarding special valuation rules for employers and employees to use in determining the amount to include in an employee's gross income for personal use of an employer-provided vehicle.

The [proposed regulations](#) [PDF 315 KB] reflect changes made by the U.S. tax law enacted in December 2017 as Pub. L. No. 115-97—the law that is often referred to as the “Tax Cuts and Jobs Act” (TCJA).

Comments and requests for a public hearing are due by October 22, 2019.

Background

The TCJA increased the depreciation limitations for passenger automobiles placed in service after 2017. If bonus depreciation is not claimed, allowable depreciation is limited to \$10,000 in year one; \$16,000 in year two; \$9,600 in year three; and \$5,760 in all subsequent years.

These limitations are indexed for inflation for automobiles placed in service after 2018.

The IRS in early January 2019 issued Notice 2019-08 providing the maximum fair market value of a vehicle eligible to use the fleet-average and cents-per-mile special valuation rules. According to Notice 2019-08:

- 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 may be applicable is \$50,000.
- 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 may be applicable is \$50,000.

The IRS then in May 2019 released Notice 2019-34 to provide the maximum vehicle value for 2019 for purposes of the special valuation rules in Reg. section 1.61-21(d) and (e) (the automobile lease valuation and vehicle cents-per-mile valuation rules, respectively) that may be used to determine the value of the personal use of an employer-provided vehicle. Those valuations are as follows:

- \$50,400—the maximum value of an employer-provided vehicle (including cars, vans, and trucks) first made available to employees for personal use in calendar year 2019 and for which the vehicle cents-per-mile valuation rule applies
- \$50,400—the maximum value of an employer-provided automobile (including vans and trucks) first made available to employees for personal use in calendar year 2019 and for which the fleet-average valuation rule applies

Notice 2019-34 further stated that the Treasury Department and IRS intend to revise Reg. section 1.61-21(e) to provide that if an employer did not qualify under Reg. section 1.61-21(e)(5) to adopt the vehicle cents-per-mile valuation rule on the first day on which a vehicle was used by an employee of the employer for personal use because, under the rules in effect before 2018, the vehicle had a fair market value in excess of the maximum permitted in accordance with Reg. section 1.61-21(e)(1)(iii), the employer could first adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 tax year based on the maximum fair market value of a vehicle for purposes of the vehicle cents-per-mile valuation rule set forth in Notice 2019-08 or Notice 2019-34. Read [TaxNewsFlash](#)

Proposed regulations

As indicated by the preamble to the proposed regulations, the proposed regulations update the fleet-average and vehicle cents-per-mile valuation rules contained in existing regulations so as to align the limitations on the maximum vehicle fair market values for use of these special valuation rules with the changes made by the TCJA to the depreciation limitations in section 280F.

The preamble explains that consistent with the substantial increase in the dollar limitations on depreciation deductions under section 280F(a), the proposed regulations increase, effective for the 2018 calendar year, the maximum base fair market value of a vehicle for use of the fleet-average or vehicle cents-per-mile valuation rule to \$50,000.

The maximum fair market value of a vehicle for purposes of the fleet-average and vehicle cents-per-mile valuation rule is adjusted annually under section 280F(d)(7). This annual adjustment will be calculated in accordance with section 280F(d)(7) as amended by the TCJA.

Furthermore, consistent with Notice 2019-34, the Treasury Department and IRS expect that the inflation-adjusted maximum fair market value for a vehicle for purposes of the fleet average and vehicle cents-per-mile valuation rules will be included in an annual notice published by the IRS that will provide the standard mileage rates for the use of an automobile for business, charitable, medical, and moving expense purposes and the maximum standard automobile cost for purposes of an allowance under a fixed and variable rate (“FAVR”) plan.

Transition rules for 2018 and 2019

Consistent with Notice 2019-34, the following transition rules are included in the proposed regulations:

- With respect to the fleet-average valuation rule, if an employer did not qualify to use the fleet-average valuation rule prior to January 1, 2018, with respect to an automobile because the fair market value of the automobile exceeded the inflation-adjusted maximum value requirement of Reg. section 1.61-21(d)(5)(v)(D), as published by the IRS in a notice or revenue procedure applicable to the year the automobile was first made available to any employee of the employer, the employer may adopt the fleet-average valuation rule for 2018 or 2019, provided

the fair market value of the automobile does not exceed \$50,000 on January 1, 2018, or \$50,400 on January 1, 2019, respectively.

- With respect to the vehicle cents-per-mile valuation rule, for a vehicle first made available to any employee of the employer for personal use before calendar year 2018, if an employer did not qualify under Reg. section 1.61-21(e)(5) to adopt the vehicle cents-per-mile valuation rule on the first day on which the vehicle was used by the employee for personal use because the fair market value of the vehicle exceeded the inflation-adjusted limitation of Reg. section 1.61-21(e)(1)(iii), as published by the IRS in a notice or revenue procedure applicable to the year the vehicle was first used by the employee for personal use, the employer may first adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 tax year with respect to the vehicle, provided the fair market value of the vehicle does not exceed \$50,000 on January 1, 2018, or \$50,400 on January 1, 2019, respectively.
- Similarly, if the commuting valuation rule of Reg. section 1.61-21(f) was used when the vehicle was first used by an employee of the employer for personal use, and the employer did not qualify to switch to the vehicle cents-per-mile valuation rule on the first day on which the commuting valuation rule was not used because the vehicle had a fair market value in excess of the inflation-adjusted limitation of Reg. section 1.61-21(e)(1)(iii), as published by the IRS in a notice or revenue procedure applicable to the year the commuting valuation rule was first not used, the employer may adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 tax year, provided the fair market value of the vehicle does not exceed \$50,000 on January 1, 2018, or \$50,400 on January 1, 2019, respectively. However, an employer that adopts the vehicle cents-per-mile valuation rule must continue to use the rule for all subsequent years in which the vehicle qualifies for use of the rule, except that the employer may, for any year during which use of the vehicle qualifies for the commuting valuation rule of Reg. section 1.61-21(f), use the commuting valuation rule with respect to the vehicle.

Today's release clarifies that until the final regulations are published, taxpayers may rely on the guidance provided in the proposed regulations.

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