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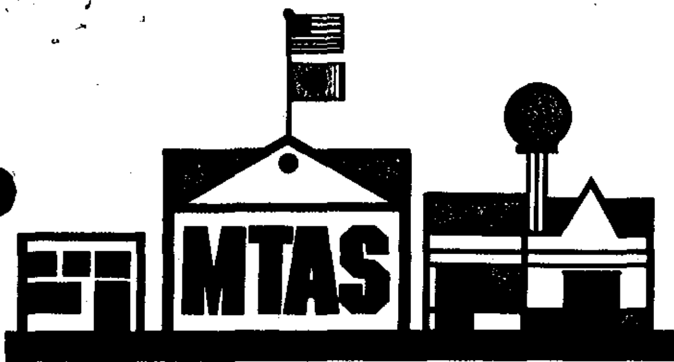

TECHNICAL BULLETIN

MUNICIPAL TECHNICAL ADVISORY SERVICE
THE UNIVERSITY OF TENNESSEE
IN COOPERATION WITH THE TENNESSEE MUNICIPAL LEAGUE
U.T. E14-1050-00-003-86

June 18, 1985

CONGRESSIONAL ACTION MODIFIES IRS VEHICLE REQUIREMENTS

By Richard M. Ellis, Management Programs Consultant

President Reagan signed into law May 24, 1985, the Conference Report to H.R. 1869, which became Public Law 99-44. As of the printing of this technical bulletin, Public Law 99-44 has not been printed. This bulletin is based upon the Conference Report, which may not include all the provisions which will be included in the law when it is published. However, since we are nearly to the end of the second quarter when you must report the value of vehicular fringe benefits, we felt it imperative that you receive as much information as we have available. When we receive the published Public Law 99-44, we will prepare a follow-up technical bulletin indicating areas of change and more specific information on compliance. You will want to re-read the technical bulletin dated March 8, 1985, entitled "Changes in IRS Rules Regarding Employee Fringe Benefits." Much of the information presented here will refer to this bulletin.

Section 1 of H.R. 1869 repeals the contemporaneous records requirement. Your employees will not be required to maintain logs of vehicle use, as originally required under IRS regulations. However, there are other record keeping requirements that will be established in regulations to be published in October, and which will be more clearly explained in Public Law 99-44 when published. This information will be throughly discussed in a subsequent technical bulletin.

Section 2 of H.R. 1869 defines a "qualified nonpersonal use vehicle" and establishes that the use of such city-owned vehicles by an employee does not constitute fringe benefit income and therefore is not subject to taxation. The term "qualified nonpersonal use vehicle" means any vehicle which, by reason of its nature, is not likely to be used more than a de minimis amount(the term de minimis relates to incidental stops by employees, such as to stop for a meal or to stop by a grocery store or laundry enroute to and from the work place and

home). The Conference Report, and we assume the subsequent Public Law 99-44, includes the following vehicles in this definition: (a) clearly marked police and fire vehicles; (b) delivery trucks with seating for only the driver, or only for the driver plus a folding jump seat; (c) flatbed trucks; (d) any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds; (e) passenger buses used as such with a capacity of at least 20 passengers; (f) ambulances used as such or hearses used as such; (g) bucket trucks (cherry pickers); (h) cranes and derricks; (i) forklifts; (j) cement mixers; (k) dump trucks (including garbage trucks); (l) refrigerated trucks; (m) tractors; (n) combines; (o) school buses; (p) qualified moving vans; (q) specialized utility repair trucks which are specially designed and used to carry heavy tools, testing equipment, or parts and the employer requires the employee to drive the truck home in order to be able to respond in emergency situations for purposes of restoring or maintaining electricity, gas, telephone, water, sewer, or steam utility services. It must be pointed out that the Conference Report specifically excluded vans or pickups that were not specially equipped to store and/or carry heavy tools, parts, etc., required to carry out emergency repair and maintenance work.

This section is effective Jan. 1, 1986, and there is no requirement to withhold benefits from employees utilizing these types of vehicles during this tax year. The Conference Report did indicate that IRS is authorized to consider regulations which would include unmarked law enforcement vehicles in the exceptions listed above, which will more than likely be included in regulations to be published in October.

Section 3 of H.R. 1869 provides that an employer may elect not to deduct and withhold income taxes with respect to the non-cash fringe benefit attributable to an employee's personal use of a city-owned vehicle. An employer making this election must so notify the employee (at such time and in such manner as will be provided in Treasury regulations, (which are not due for publication until October 1985), and must include the fair market value of the benefit on the W-2 Form furnished to the employee. The employer must still withhold Social Security taxes. This provision is effective Jan. 1, 1985, although it is not clear how to implement the provisions of the withholding election since regulations will not be forthcoming until October of this year. We hope some clarification will be included when Public Law 99-44 is published.

Although there are still a few uncertainties regarding compliance with the IRS regulations relating to vehicular fringe benefits, cities must begin to report personal use value, using either the commuting value ($3.00 per day), the annual lease value, or the daily lease value method outlined in the technical bulletin dated March 8, 1985. The report for this quarter must include the first two quarters of this year for all vehicle use except that specifically exempted under Section 2 of H.R 1869 as stipulated above. For additional information concerning this matter, contact Rich Ellis at the Knoxville office of MTAS, (615) 974-5301, or the municipal management consultant for your city.