


MANAGEMENT DIRECTIVE

Commonwealth of Pennsylvania Governor's Office

Subject: Taxability of State-Provided Parking	Number: 315.28 Amended
Date: February 1, 2011	By Direction of:  Charles B. Zogby, Secretary of the Budget
Contact Agency: Office of the Budget, Office of Comptroller Operations, Bureau of Commonwealth Payroll Operations, Telephone 717.772.5340	

This directive establishes policy, responsibilities, and procedures for determining the value of employee use of state-provided parking and for withholding and reporting applicable taxes, in accordance with *Section 132 of the Internal Revenue Code*. In lieu of listing the values for the Internal Revenue Service (IRS) monthly exemptions, this amendment includes the link to the current list of IRS monthly exemptions titled "Qualified Transportation Benefit Exclusions". Marginal dots have been excluded due to major changes.

- 1. PURPOSE.** To establish policy, responsibilities, and procedures for determining the value of employee use of state-provided parking and for withholding and reporting applicable taxes.
- 2. SCOPE.** This directive applies to all departments, boards, commissions, and councils (hereinafter referred to as "agencies") under the Governor's jurisdiction and to those independent agencies using the SAP Human Resource & Payroll Module.
- 3. OBJECTIVE.** To ensure that the withholding and reporting of tax on noncash compensation relating to the use of state-provided parking complies with federal and state regulations.
- 4. DEFINITIONS.**
 - a. Limited Access Space.** Involves one or more spaces to which only a limited number of individuals are permitted access. Agencies may alternate the tax burden between the employees with access, on a monthly basis, so long as all months in which access is provided are accounted for during the year.

b. Parking Based on Access. The value of the parking subject to tax under *Section 61* of the *Internal Revenue Code* is the right to access on a given day the employer-provided parking and not the actual use of the parking by the employee.

c. Qualified Parking for Carpool, Vanpool, or Limited Access Space. If an employee obtains a qualified parking space as a result of membership in a carpool, vanpool, or limited access space, the parking space must be assigned to a specific individual or "prime member" who must bear the tax consequences attributable to that space. If the space is not assigned to a particular individual, then the agency that provides access to the space must designate one of its employees as the person who will bear the tax consequences.

Note: Members of the carpool, vanpool, or limited access space are not permitted to combine their individual parking exclusions.

d. State-Provided Parking. Parking that is accessible to an employee on or near the employer's business premise. It is paid for by the employer (directly to a parking lot operator or by reimbursement to the employee), or is on premises that the employer owns or leases.

Note: This includes reimbursements made to the employee for parking on or near the employer's business premise.

e. Value of State-Provided Parking. The value of the parking provided by the employer to an employee is based on the amount (including taxes and other fees) that an individual would incur in an arm's length transaction to obtain parking at the same site. If the amount is not ascertainable, then the value of parking is based on the amount that an individual would incur in an arm's length transaction for a space in the same lot or a comparable lot in the same general location under the same or similar circumstances. An employee's subjective perception of value of the parking or the costs incurred by the employer are not relevant to the determination of its fair market value.

5. POLICY.

a. *Section 132* of the *Internal Revenue Code* stipulates that employer provided parking is considered a transportation fringe benefit. If the fair market value of the parking exceeds the IRS monthly exemption (See the current list of **Qualified Transportation Benefit Exclusions**), the amount in excess of the IRS monthly exemption is taxable and must be included in the employee's federal and Social Security gross taxable income.

b. The assignment and use of state-provided parking shall be in accordance with policy and procedures established by the Executive Board and the Department of General Services (DGS).

c. Commonwealth employees who have state-provided parking are covered by the amendments to the *Internal Revenue Code* and the *Federal Insurance Contribution Act*.

d. Exceptions:

- (1) Under current IRS regulations, the personal use of vehicles is exempt from taxation for vehicles that are clearly business related such as marked police and fire vehicles, dump trucks, school buses, etc. (See the current list of tax exempt vehicles.)
- (2) Under current IRS regulations, the personal use of state-provided vehicles by certain law enforcement classifications of employees is exempt from taxation if the personal use has been authorized by the state agency and the personal use is incident to law enforcement functions. (See the current list of exempt law enforcement classifications.)

e. The reporting period for parking benefits is November 1 through October 31 of the following year.

6. RESPONSIBILITIES.

a. Agency Fiscal Officers shall:

- (1) Ensure that all employees under their jurisdiction and within the scope of this directive are properly disclosed to the Office of the Budget, Office of Comptroller Operations, Bureau of Commonwealth Payroll Operations (BCPO) in relation to IRS requirements.
- (2) Ensure that a current list of all employer-provided parking in excess of IRS exclusion amount is maintained and accessible, in accordance with applicable records retention and disposition schedules.
- (3) Submit to BCPO, upon request, a current list of employer-provided parking spaces whose fair market value exceeds the IRS exclusion amount and the names and personnel numbers of the employees bearing the tax consequences of such parking spaces.

b. Office of the Budget, Office of Comptroller Operations, Bureau of Commonwealth Payroll Operations shall:

- (1) Obtain a list from agency fiscal officers detailing employees with state-provided parking and the number of months each space was assigned to each individual.
- (2) Calculate and adjust employee gross taxable income from the information obtained from the agency fiscal officers for IRS Form W-2, Wage and Tax Statement preparation.
- (3) Notify employees identified in section 6.a.(3) of this directive that the fair market value of their state-provided parking exceeds the IRS exclusion amount. This notification must include:
 - (a) The tax period in which the employee used state-provided parking valued in excess of the IRS exclusion amount.

- (b) The amount by which the employee's gross taxable earnings for federal, Social Security and Medicare tax will be increased.
- (c) The pay date on which the increase to the employee's gross taxable earnings for Federal, Social Security and Medicare tax will be increased.

7. PROCEDURES.

a. Action By: Agency Fiscal Officer.

- (1) Compiles and maintains a detailed monthly listing of all state-provided parking with a value in excess of the IRS exclusion limit, in accordance with applicable records retention and disposition schedules. The list should include the name and personnel number of each employee assigned to each space.
- (2) Updates records each month to reflect the "prime member" employee to whom the space is assigned.
- (3) Provides a listing of all state-provided parking with a value in excess of the IRS exclusion limit for the agency's employees semi-annually upon request from BCPO.

b. Action By: Office of the Budget, Office of Comptroller Operations, Bureau of Commonwealth Payroll Operations.

- (1) Surveys agency fiscal officers semi-annually for all qualified state-provided parking in excess of the IRS exclusion amount, including the names and personnel numbers of employees to whom the qualifying spaces were assigned for the current tax year.
- (2) Adjusts employee's earnings and deductions twice a year to reflect taxable parking.
- (3) Adjusts terminated employee parking.
- (4) Deducts federal income, Social Security, and Medicare taxes from employee's gross earnings.
- (5) Remits income tax withheld and employee and state share of Social Security and Medicare taxes to the IRS.
- (6) Includes necessary adjustments on employee's IRS Form W-2, Wage and Tax Statement.

This directive replaces, in its entirety, *Management Directive 315.28* dated June 18, 2008.