

Anchin Alert

Anchin, Block & Anchin LLP
Accountants and Advisors

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Fringe Benefits That May Affect Your Payroll Reporting and Tax Withholding

To Our Business Clients:

Attached for your convenience is a summary of the tax treatment of certain fringe benefits for payroll tax and income tax reporting purposes, plus detailed information regarding company automobiles and health and accident insurance premiums for S corporations.

If any of these items apply to your company, please provide a copy to the person responsible for overseeing your payroll tax operations. Please don't hesitate to call us if you have any questions.

Attachment

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Part I: TAXABLE FRINGE BENEFITS TO BE REPORTED ON FORM W-2
Part I (A): Summary of Taxable Fringe Benefits to be Reported on Form W-2

Fringe Benefit	Includable in wages (Form W-2, box 1)	Subject to Social Security and Medicare taxes (Form W-2, boxes 3 and 5)	Subject to Federal Unemployment Insurance (FUTA)
Personal use of employer provided vehicle	Yes	Yes	Yes
Health and accident insurance premiums for more than 2% shareholder employees of S corporation (a)	Yes	No	No
Health and accident insurance premiums for a domestic partner of an employee who is a dependent (e)	No	No	No
Health and accident insurance premiums for a domestic partner of an employee who is not a dependent (e)	Yes (b)	Yes (b)	Yes (b)
Group term life insurance provided to employee who are more than 2% shareholder-employees of S corporation	Yes (c)	Yes	No
Group term life insurance provided to employee who are not more than 2% shareholder-employees of S corporation	Yes (d)	Yes (d)	No

- (a) See Part II, Q & A item 2 for definition of a “more than 2% shareholder.” This category of employees may include employees who do not directly own any stock of the S corporation but may be considered a “more than 2% shareholder” for purposes of including health and accident insurance premiums in wages.
- (b) Only the excess of the fair market value of the healthcare premiums provided by the employer over the amount paid by the employee is includable as wages.
- (c) Although the cost of group term life insurance is includable as wages, the S corporation is not required to withhold federal income tax.
- (d) Only the cost of group term life insurance in excess of \$50,000 coverage provided to employees other than those who are more than 2% shareholder-employees of the S corporation is includable as wages. Please see following schedule in Part I (B) of this memo for amounts includable in income based on premium rates generated by the Internal Revenue Service.
- (e) In response to a June 2013 Supreme Court ruling declaring a key provision to 1996 Defense of Marriage Act as unconstitutional, the Internal Revenue Service will recognize same-sex marriages as legally married regardless of where the same-sex couple resides. See question Q-8 of this memo.

Part I (B): Monthly Cost per \$1,000 of Coverage in Excess of \$50,000 as per Publication 15-B, Table 2-2

Age at Year End	Monthly Rate 2017
Under 25	\$.05
25-29	.06
30-34	.08
35-39	.09
40-44	.10
45-49	.15
50-54	.23
55-59	.43
60-64	.66
65-69	1.27
70 and above	2.06

For example, an employee aged 57 with \$250,000 in excess coverage (\$300,000 coverage less \$50,000) would be required to include \$1,290 ($\$250,000 / \$1,000 \times .43 \times 12$) in income for 2017.

Part II: HEALTH AND ACCIDENT INSURANCE PREMIUMS FOR S CORPORATION SHAREHOLDERS - PAYROLL TAX TREATMENT

The value of health and accident insurance premiums and other statutory fringe benefits paid on behalf of most S corporation shareholders and certain related parties must be treated as compensation, and is includable in gross wages reported on Form W-2.

The following is a description, in question and answer format, of how these rules should be applied:

Q1: Who is affected by the S corporation fringe benefit rule?

A1: All “more than two percent” shareholders of S corporations who receive compensation in the form of certain fringe benefits that would normally be tax free.

Q2: What is the definition of a “more than two percent” shareholder for these purposes?

A2: Anyone who owns more than two percent of S corporation stock, either directly, or through attribution from one’s spouse, children, parents, or as the beneficiary of a trust at any time during the year. This means that individuals who own no stock whatsoever and receive no cash salary may be subject to this rule.

For example, if a shareholder’s son owns no stock in the corporation but is a participant in the corporation’s medical insurance plan, he is treated as receiving taxable compensation to the extent of the value of the insurance premiums paid during the year.

If, in the above example, the shareholder’s son was not an employee of the corporation, the amount of the premiums paid for him should be added to the shareholder-parent’s taxable compensation as the value of additional family coverage.

Q3: What types of benefits are taxable to the shareholder under these rules?

A3: Although the IRS has ruled specifically in connection with health and accident insurance premiums, the rules should apply to all fringe benefits which are statutorily excludable from an employee’s income under normal circumstances. Thus, in addition to medical insurance premiums, included would be the value of coverage in medical reimbursement programs, disability insurance premiums, group term life insurance premiums, death benefits, and benefits under a cafeteria plan. Certain fringe benefits which are not covered by the rule include compensation for injuries or sickness, dependent care assistance, qualified employee discounts, working condition fringes and de minimis fringes.

Q4: What type of payroll taxes must be withheld from these fringe benefits?

A4: Amounts paid for accident and health insurance are not wages for Social Security and Medicare tax purposes if the payments are made under a plan or system for employees and their dependents generally, or for a class of employees and their dependents. The amounts must still be included in wages for federal, state and local income tax withholding purposes. All other benefits described in Q&A #3 are treated as cash wages subject to all applicable withholding taxes.

Q5: How frequently must tax be withheld and fringe benefits reported to the IRS?

A5: As is the case with the value of personal use of company automobiles, the fringe benefits which are taxable to S corporation shareholders will be treated as being paid by the corporation at any interval it chooses, as long as it is not less frequent than on an annual basis. Furthermore, if the company is using a special accounting period to report automobile usage (i.e., October 31st year end or November 30th year end), the special year may be used to report the S corporation shareholder fringe benefits also. If the employer is not already reporting automobile usage as a fringe benefit, the company may select an accounting period ending on October 31st or November 30th. Any benefits that are paid in the period after the close of the fringe benefit year will be reported in the employee’s compensation for the next calendar year.

Q6: Where is the value of the S corporation shareholders fringe benefits reflected on Form W-2?

A6: The value of the fringe benefits provided by the S corporation must be included in total wages on the shareholder/employee's 2017 Form W 2, boxes 1, 3* and 5*. The cost of excess group term life insurance coverage must also be reflected in box 12 with code C. The amount attributable specifically to health and accident premiums should be provided to the employee because it may be partially or fully deductible on his or her personal income tax return. This amount should be reflected in box 14 or on a separate statement.

* Other than accident and health insurance as discussed in Q & A #4, above.

Q7: When do employers need to report on the employee Form W-2 the value of the health insurance coverage provided to their employees as required under the Affordable Healthcare Act passed by Congress on March 23, 2010?

A7: The Act requires that beginning in the 2011 tax year employers must report the value of employer sponsored health insurance coverage on the employee's annual Form W-2. Transitional relief was available up to the 2014 tax year and to a lesser degree in 2015 and 2016. There is no longer any transitional relief so if you have over 50 employees in 2016, you must report. The amount of reportable health coverage cost to be reported includes the employer and employee portion of the health insurance premiums paid and includes coverage for the employee and any person covered by the plan because of relationship to the employee. **The reporting is for informational purposes only and is not taxable.**

Q8: What impact does the Supreme Court decision in Windsor v. United States have on health insurance premiums paid on behalf of a same-sex spouse?

A8: In response to the Supreme Court June 2013 decision declaring a key provision in the Defense of Marriage Act unconstitutional, the Internal Revenue Service and the United States Treasury have declared that legally married same-sex couples, regardless of whether or not they live in a jurisdiction that does or does not recognize same sex-marriages have the same status as opposite-sex couples. This ruling is limited to legally married couples only. This ruling does not apply to those couples who are not legally married but are in registered domestic partnerships, civil unions or other formal relationships which are not marriages under state law.

Employer's health insurance premiums paid on the employee's same-sex spouse should be treated the same way as if it were paid on an opposite-sex spouse, it should not be included as part of the employee's wages.

Q9: What are the employer reporting requirements of the Affordable Care Act under Internal Revenue Code section 6056?

A9: The Affordable Care Act requires that an applicable large employer, generally one who employed at least 50 full-time employees on the business days during the preceding calendar year, to file information returns to the IRS and provide statements to their full-time employees pertaining to the health insurance coverage offered to them. In general, this return includes information such as the employee's and employer's name and address, information on coverage provided during the year and the individuals covered under the employee's plan. Form 1094-C (transmittal) and form 1095-C are to be used to report this information. Pursuant to the 2017 IRS form 1094-B and 1095-B instructions, employers are required to furnish form 1095-B or 1095-C to their employees by January 31, 2018. The due dates for employers filing these forms with the IRS have not changed and are February 28, 2018 for paper filing and March 31, 2018 for electronic filing.

An automatic 30-day extension of time to file is available by completing Form 8809 on or before the due dates.

Part III: AUTOMOBILE SUPPLEMENT – INFORMATION REGARDING COMPANY AUTOMOBILES

In order for us to help you comply with the strict rules regarding the treatment of automobiles used by businesses and are available for personal use, you must obtain certain information regarding the use of all of your company automobiles. The data must be obtained for the following purposes:

- 1) Information reporting on tax returns. The tax returns cannot be completed without this information.
- 2) Determining the amount of additional compensation which must be included in employees' income for personal use of automobiles, or the amount required to be reimbursed by the employee for the personal use.
- 3) Determining limitations on deductions of leased cars, many of which fall into the "luxury automobile" category.

For all automobiles that your company either owns or leases, please have the employee or shareholder complete the attached worksheet, Form "A," found in Part III (B) of this memo. You will need a separate worksheet for each employee. We are also enclosing a sample transmittal letter summarizing to the employees the rules for use of a company car which should be transcribed onto the company's stationery (see Part III (A) of this memo). The information collected in Form "A" collects the info needed in order for you to complete Form "B" (found in Part III(C) of this memo) which illustrates two valuation methods available to you in computing the employees' taxable fringe benefits. We will assist you in computing each of these amounts. In addition to the employees' information, please provide the following information with respect to automobiles leased by the company:

- 1) Effective date and terms of lease.
- 2) Principal driver.
- 3) Fair market value at effective date of lease (i.e., cost to purchase auto). If not available, please provide as much detail as possible regarding make, model number, and options so that we can determine the value.

Accounting period

Please note that for purposes of determining personal use in computing the employees' taxable fringe benefits, you may gather the information on the basis of a special accounting period that ends no earlier than October 31, provided the information regarding the use of the automobile after the end of the accounting period is included in the following year's information; e.g., if the accounting period ends October 31, 2017, the information regarding the personal use beginning November 1, 2016 and ending October 31, 2017 must be included in the 2017 computation. Use of the October 31, 2017 date is strongly recommended because it allows additional time for your payroll personnel to timely report the data on the payroll tax returns. It is suggested that you set a date no later than two weeks after the end of the reporting period for all employees to supply the required information.

Reimbursements, fuel costs and Form W-2

Under the methods utilized in Form B, any reimbursement to the company by the employee for use of the vehicle reduces the amount includable in the employee's wages. Any fuel costs incurred by the employee, not reimbursed by the company and is allocated for business use reduces the amount includable in the employee wages. Any fuel cost incurred by the company, not reimbursed by the employee to the company and allocable to the employee's personal use gets added to the amount includable in the employee's wages. The value of personal use and fuel net of reimbursements must be included in total wages on the employee's 2017 Form W-2, boxes 1, 3, and 5; it should also be reflected in box 14 with an explanation or on a separate statement.

If you have any questions, please don't hesitate to contact us. Thank you for your cooperation.

Part III (A): Sample Transmittal Letter to be Transcribed onto Company Stationery
(to be sent to all employees accompanied with Form "A" (see Part III (B) of this memo)

November 2017

TO: All Persons Provided With A Company Car

The Internal Revenue Service has issued rules for taxing the personal use of company owned or leased vehicles. In order for us to compute the amount of your additional compensation for personal use of automobiles, or the amount you are required to reimburse us, we need the information contained on the attached "Employee Statement" (Form "A").

The rules regarding the use of a company car are briefly summarized below:

- 1) The use of a company car for non-business travel becomes a taxable fringe benefit (additional compensation) subject to income and employment taxes.
- 2) The company is required to report the fair value of the fringe benefit to the appropriate tax authorities and to you on Form W-2 for inclusion in your 2017 gross income.
- 3) Personal use of a company car includes round trip commutation (including travel from home to your first business stop and return travel from your last business stop to home).
- 4) Without exception, every employee using a company car must:
 - a) maintain adequate WRITTEN records or have "sufficient corroborative evidence" to substantiate BUSINESS use of the company car, and
 - b) timely furnish us with an annual STATEMENT containing information required by the Internal Revenue Service.

NOTE: "Written records" means a diary, account book, periodic log, trip sheets, expense statements with supporting receipts, etc., containing entries made at or near the time of car usage.

Failure to substantiate business use of the company car could result in such use being treated as fully taxable to you.

- 5) Your company has established an annual fringe benefit reporting period ending (enter your reporting period here).
- 6) Your taxable fringe benefit will be derived from a special table formulated by the Internal Revenue Service. This table reflects maintenance and insurance costs, but not fuel paid for by the company, the cost of which will be added to your taxable fringe benefit.

Under certain circumstances, your taxable fringe benefit will be based on a cents-per-mile computation, which includes the value of fuel paid for by the company.

- 7) The company has elected NOT to withhold income tax from you on your taxable benefit for 2017. However, the company is required to withhold applicable FICA tax on the value of the fringe benefit.

In order to properly comply with the reporting rules for 2017, we are enclosing an EMPLOYEE STATEMENT (Form "A"). We ask that you promptly complete the entire form, sign where indicated, and return it to the attention of _____, within ___ days from the end of the reporting period. Mileage for commuting and other personal use should NOT be combined. If more than one car was used during the reporting period, please separately provide full details for each.

NOTE: Failure to reply timely will cause the value of the fringe benefit to be computed based on 100% personal use of the vehicle on your 2017 Form W-2 as additional compensation.

SIGNATURE AND TITLE OF OFFICER

Part III (B): Form "A" – Employee's Statement Regarding Usage of Employer Provided Vehicle(s)
(to be sent to all employees accompanied with the transmittal letter found in Part III (A) of this memo)

COMPANY NAME

TO: _____

FROM: _____

EMPLOYEE'S STATEMENT REGARDING USAGE OF EMPLOYER PROVIDED VEHICLE(S)

- () Calendar Year Ended December 31, 2017
- () Fringe Benefit Reporting Year -
 Beginning _____ and Ending _____

In response to your notification letter to me dated November __, 2017, and in accordance with the guidelines set forth therein, please be advised that I maintain "adequate records" or have "sufficient corroborative evidence" to substantiate my use of company provided vehicle(s) for the annual reporting period described above. The following summary information is submitted to you based on my written records, which are available on request:

	<u>Vehicle 1</u> (a)	<u>Vehicle 2</u> (b)
1) <u>Vehicle Description</u> - <i>Note: Use column (a) only if same vehicle was used throughout reporting period.</i>	Year _____ Make/Model _____	Year _____ Make/Model _____
2) <u>Vehicle</u> -	Owned _____ Leased _____ Terms _____ Monthly Payment \$ _____	Owned _____ Leased _____ Terms _____ Monthly Payment \$ _____
3) <u>Period of Use</u> -		
a) First Date	_____	_____
b) Last Date	_____	_____
4) <u>Mileage</u> -		
a) Business Use	_____	_____
b) Personal – Commuting	_____	_____
c) Personal – Other	_____	_____
d) Total(s)	\$ _____	\$ _____

5) Relationship of Driver to Company - Shareholder_____ Employee_____

6) Approximate Costs of Fuel Paid by the Company - \$_____ \$_____

I understand that the fair market value of the company vehicle(s) not used for business purposes, or otherwise not paid for by me to the company (plus the value of fuel used for personal purposes and paid for by the company), as determined under federal income tax regulations, are taxable to me as a noncash fringe benefit. The computed amount will be reported on Form W 2 (Wage and Tax Statement) for 2017 as additional compensation, but the company has chosen not to withhold federal, state, and/or local income taxes thereon.

Signature

Date

Part III (C): Form "B" - Worksheet to Compute Taxable Fringe Benefit for 2017

EMPLOYER: _____

FORM "B" - WORKSHEET TO COMPUTE TAXABLE FRINGE BENEFIT FOR 2017
(Company Provided Vehicle)

- 1) Employee: _____
- 2) Reporting Year Ended: _____ (Note 1)
- 3) Vehicle Description: _____ (Note 2)

PART I - DETERMINATION OF FAIR MARKET VALUE: (Note 5)

- 4) A) Owned Vehicle - Original Cost (Note 3) 4A.\$ _____

OR

- B) Leased Vehicle - Fair Market Value on lease commencement date (Notes 3 & 4) 4B.\$ _____
- C) (Choose Item 4A or 4B) 4C.\$ _____

PART II - ANNUAL LEASE VALUATION (ALV):

- 5) Enter amount from column 2 of ALV table (Part III (D) of this memo) corresponding to Item 4C - 5.\$ _____

- 6) Prorated ALV: (Applies only if report period is less than 12 months)
 - A) $\frac{\text{(No. of days of available vehicle use)}}{\text{(No. of days in short year reporting period)}} = 6A. \text{_____}\%$
 - B) $\$ \text{_____} \times \text{_____}\% = 6B. \text{_____}$
(Item 5) (Item 6A)

- 7) Mileage (from Employee's Statement - Form A):
 - A) Personal Usage - Commuting _____ Miles
 - B) Personal Usage - Other _____ Miles
 - C) Combined (Items 7A and 7B) _____ Miles
 - D) Total (Business & Personal) _____ Miles
 - E) Percent of personal usage (Item 7C divided by Item 7D) 7E. _____%

EMPLOYEE

REPORTING YEAR ENDED

8) NONCASH VALUE - PERSONAL USE OF COMPANY VEHICLE:

\$ _____ x _____%

(Item 5 or 6B) (Item 7E)

8. _____

9) Add fuel costs paid by company:

A) \$ _____ x _____% = 9A. \$ _____
Company fuel (Item 7E)
cost this vehicle

OR

B) \$ _____ x 0.055 % = 9B. \$ _____
Non business rate
miles (Item 7C)

C) Item 9A. or 9B. 9C. _____

10) Total (Items 8 and 9C) 10. \$ _____

11) Less: Amounts reimbursed by employee to company for use of car
11. \$ _____

12) TAXABLE FRINGE BENEFIT (Item 10 less item 11) (SEE PARTS IV AND V)
(Report as additional compensation) 12. \$ _____

EMPLOYEE

REPORTING YEAR ENDED

PART III - CENTS PER MILE VALUATION [OPTIONAL]:

Can be used only for passenger automobile having a fair market value of \$15,900 or less or a truck having a fair market value of \$17,700 or less, and meeting either one of the following qualifications:

Regularly used in business;
or
 actually driven not less than 10,000 miles in a calendar year,
AND
 the taxable benefit is less than line 12.

13) Standard Mileage Rate
 A) Total personal miles 13A. \$ _____
 B) Multiply item 13A by \$0.535 per mile 13B. \$ _____

14) Less Reimbursements:
 A) Amounts reimbursed by employee to company for use of car 14A. _____
 B) Fuel paid by employee 14B. \$ _____
 C) Total (item 14A. plus 14B.) 14C. \$ _____

15) TAXABLE FRINGE BENEFIT (item 13B less 14 C) 15. \$ _____
 (SEE PARTS IV AND V) (Report as additional compensation)

EMPLOYEE

REPORTING YEAR ENDED

**PART IV - DETERMINATION OF ANNUAL FRINGE BENEFIT
FOR SOCIAL SECURITY (FICA) PURPOSES:**

(Applies only if regular compensation is less than \$127,200.)

- | | | | |
|-----|----|---|------------------------|
| 16) | A) | Taxable fringe benefit (Item 12 or Item 15) | 16A. \$ _____ |
| | B) | Maximum FICA compensation base | 16B. \$ <u>127,200</u> |
| | C) | <u>Less:</u> Regular compensation
subject to FICA tax | 16C. \$ _____ |
| | D) | Excess (Item 16B less Item 16C)
(If 16C exceeds 16B enter "0" on 16D) | 16D. \$ _____ |
| | E) | <u>FRINGE BENEFIT SUBJECT TO FICA TAX</u>

(Lesser of Item 16A or Item 16D) | 16E. \$ <u>_____</u> |

**PART V - DETERMINATION OF ANNUAL FRINGE BENEFIT
FOR MEDICARE PURPOSES:**

- | | | |
|-----|--|---------------------|
| 17) | There is no limit on the amount of earnings subject to the
medicare tax; enter the amount from line 12 or 15. | 17. \$ <u>_____</u> |
|-----|--|---------------------|

NOTES

- 1) Reporting Period must use calendar year unless elected to use a fiscal year ending on either the last day of October or November. No earlier month end cut off date is allowed.
- 2) Use a separate worksheet for each vehicle and combine taxable fringe benefits for this employee.
- 3) PLUS APPLICABLE SALES TAX AND TITLE (REGISTRATION) FEES
- 4) SAFE HARBOR VALUE AS FMV (OPTIONAL):
 - a) 92% of the manufacturer's suggested retail price(including sales tax, title and other costs), or
 - b) 104% of the manufacturer's invoice price (including options), or
 - c) 100% of the retail value as reported by a nationally recognized pricing source.
- 5) The Fair Market Value on the date the vehicle is first provided to the employee is effective for four years; the vehicle is revalued as of the first day of the fringe benefit reporting year for the fifth year of use by the employee.

Part III (D): Annual Lease Value Table for Automobiles (ALV Table)

(1) Automobile Market Value	(2) Fair Annual Lease Value
\$0 - 999.....	\$ 600
1,000 - 1,999.....	850
2,000 - 2,999.....	1,100
3,000 - 3,999.....	1,350
4,000 - 4,999.....	1,600
5,000 - 5,999.....	1,850
6,000 - 6,999.....	2,100
7,000 - 7,999.....	2,350
8,000 - 8,999.....	2,600
9,000 - 9,999.....	2,850
10,000 - 10,999.....	3,100
11,000 - 11,999.....	3,350
12,000 - 12,999.....	3,600
13,000 - 13,999.....	3,850
14,000 - 14,999.....	4,100
15,000 - 15,999.....	4,350
16,000 - 16,999.....	4,600
17,000 - 17,999.....	4,850
18,000 - 18,999.....	5,100
19,000 - 19,999.....	5,350
20,000 - 20,999.....	5,600
21,000 - 21,999.....	5,850
22,000 - 22,999.....	6,100
23,000 - 23,999.....	6,350
24,000 - 24,999.....	6,600
25,000 - 25,999.....	6,850
26,000 - 27,999.....	7,250
28,000 - 29,999.....	7,750
30,000 - 31,999.....	8,250
32,000 - 33,999.....	8,750
34,000 - 35,999.....	9,250
36,000 - 37,999.....	9,750
38,000 - 39,999.....	10,250
40,000 - 41,999.....	10,750
42,000 - 43,999.....	11,250
44,000 - 45,999.....	11,750
46,000 - 47,999.....	12,250
48,000 - 49,999.....	12,750
50,000 - 51,999.....	13,250
52,000 - 53,999.....	13,750
54,000 - 55,999.....	14,250
56,000 - 57,999.....	14,750
58,000 - 59,999.....	15,250

For automobiles with a fair market value greater than \$59,999, the annual lease value is: (.25 x fair market value) + \$500.