Duplin County Vehicle Use Policy

Duplin County may provide a county vehicle to an employee to use for county business. A county vehicle is county property and an employee assigned to a county vehicle is expected to follow all rules/regulations and is expected to display prudent behavior when operating and maintaining an assigned county vehicle.

Personal use of a county vehicle is defined as all use not for county business. Personal use of a county vehicle is considered a taxable fringe benefit to the employee. Personal use of a county vehicle includes the value of commuting to and from work, even if the employer requires the employee to take the vehicle home. Personal use of a county vehicle, other than commuting, is **prohibited.** Personal use of a qualified non-personal use county vehicle outside of the employee's assigned jurisdiction, other than commuting, is **prohibited**. Personal use by an undercover officer of a qualified non-personal use vehicle is authorized when such personal use is incidental to law-enforcement purposes, but personal use is prohibited when use is not incidental to law enforcement purposes, such as vacations, etc.

Internal Revenue Code 274(d) provides strict **substantiation requirements** for use of a county vehicle by an employee. The employee must keep records of business and personal mileage. If records are not provided by the employee, the value of all use of the vehicle is taxable income to the employee. If records are provided by the employee, the value of all personal use of the vehicle is taxable income to the employee. A **qualified non-personal use vehicle** is released from the strict substantiation requirements. An employee that qualifies for the **commuting valuation rule** is released from the strict substantiation requirements.

The taxable value of the county vehicle provided to the employee can be calculated by several methods, which are: **commuting value rule, cents-per-mile rule, and annual lease value rule**.

Qualified Non-personal Use Vehicle:

All of an employee's use of a qualified non-personal use vehicle is a working condition fringe benefit and is excludable from the taxable wages of an employee. A general list of qualified non-personal use vehicles is: clearly marked police vehicle, clearly marked fire vehicle, unmarked vehicle used by a law enforcement officer, any vehicle designed to carry a cargo with a loaded gross vehicle weight over 14,000 pounds, ambulance, a passenger bus with a capacity of at least 20, and a modified pick up truck with permanently affixed decals that is equipped with at least one of the following; hydraulic lift gate, permanent tanks or drums, permanent side boards or panels that materially raise the level of the truck bed, other heavy equipment such as an electric generator, welder, crane, or boom, or it is used primarily to transport a particular type of load other than over the highway. It is clear in the regulations that pickup trucks without one of the options list above are not exempt as a qualified non-personal use vehicle.

A clearly marked police vehicle or a clearly marked fire vehicle is treated as a qualified non-personal use vehicle to the employee only if all of the following apply:

a. The employee must always be **on call**.
b. The employee must be required to use the vehicle for commuting.
c. Personal use of the vehicle is prohibited, other than commuting, outside the assigned jurisdiction.
d. The employee must be a full-time **law enforcement officer** authorized to carry firearms, execute warrants, and make arrests or the employee must be a full time fire fighter.
e. The law enforcement officer must regularly carry firearms.

The vehicle is considered clearly marked if "through a painted insignia or words it is readily apparent the vehicle is a police of fire vehicle." Government license plated DO NOT satisfy this requirement.

An unmarked police vehicle qualifies as a non-personal use vehicle to the employee only if the following apply:

a. The employee is authorized to use the vehicle for personal use incidental to the use for law enforcement. The employee can not use the vehicle for personal trips such as vacation, etc.
b. The employer is a governmental unit responsible for crime investigation or crime prevention.
c. The employee must be a full-time law enforcement officer.
d. The employee is authorized to carry firearms, execute warrants, and make arrests.
e. The employee must regularly carry firearms, except when it is not possible because of undercover work requirements.

Law Enforcement - Always On Call:

Law enforcement "always on call" means a law enforcement officer that is expected to respond to an after shift call (dispatch) to report to duty at a location other than the regular work site. The after shift call can be, but is not limited to, a call from a citizen or a dispatch call from the communications department that requires immediate action from the law enforcement officer to respond to the public. This response can be, but is not limit to, to prevent loss of life, to reduce bodily injury, to prevent or reduce loss of property, or to respond to a crime scene. The law enforcement officer has no prior knowledge of when a call to duty may occur, what the call to duty may involve, nor the reporting location of the call to duty.

Employees on stand-by for mental health transports, operation round-up, or other prior known events, are on stand-by for an expected call. Employees asked to stay late, return early, or are called in to their normal work station, when they are off duty, to assist with a problem at work, are working a modified shift schedule or are working overtime. These events do not qualify the employee as “always on call”.

Law Enforcement Officer:

An individual who is employed on a full-time basis, by a governmental unit, that is responsible for preventing or investigating crime involving injury to persons or property, including apprehending and detaining persons for such crimes, who is authorized to carry fire arms, authorized to execute search warrants, authorized to make arrests, and who regularly carries fire arms, except when it is impossible because of undercover work.

Commuting Value Rule:

Under the commuting valuation rule, the value of the employer provided vehicle is $1.50 per one-way commute, $3.00 round trip. The commuting valuation rule is available for commuting from work to home and from home to work. The employee is not eligible to drive the vehicle from work to lunch and return to work under this rule. The commuting valuation rule can be used if:

a. The vehicle is owned or leased by the county.
b. The vehicle is use for county business only.
c. The employee is **required** to commute in the vehicle for a **valid non-compensatory** business reason. The employee is required to commute in the vehicle for the benefit of the employer and the reason must be identifiable, justifiable, and documented. The use cannot be voluntary.
d. The county has a written policy prohibiting personal use other than commuting.
e. The employee does not use the vehicle for other than de minimis personal use, such as a stop for a personal errand that is between work and the employee’s home.
f. If the vehicle is an automobile (any four-wheeled vehicle manufactured for use on public roads), the employee using the vehicle is not a **control employee**.

A **control employee** of a government is:

a. An elected official.
b. Employee whose compensation is at least as great as a Federal government employee at Executive Level V.

For further information on the commuting value rule see IRS regulation 1.61-21 (f).

Cents-Per-Mile Rule:

The cents-per-mile rule may be used if the following conditions are met:

a. Fifty percent (50%) of the total annual mileage must be for county business.

b. Fair market value of the vehicle is less than the IRS threshold.
c. Vehicle is driven at least 10,000 miles per year.

The cents-per-mile rate is the current IRS mileage rate and is applied to the personal miles driven. For 2008 the IRS mileage rate is 50.5 cents. The cents-per-mile rule cannot be used for vehicles exceeding the established IRS FMV for the cents-per-mile rule. For 2008 IRS value is $15,000 for an automobile and $15,900 for a truck or van. This amount is revised annually. If the county owns the vehicle, the purchase price, including tax and title fee, is the fair market value (FMV). The cost of special equipment added to the vehicle by the employer is excluded from the valuation. For further information on the cents per mile rule, see IRS regulation 1.61-21(e).

Example:

Total miles driven:	15,000
Personal miles:	6,000
Business miles:	9,000

Amount of benefit to be included in gross income is:
6,000 miles x .505 = 3,030 total taxable personal benefit

<u>Annual Lease Value Rule:</u>

The annual lease value rule may be used when the vehicle can be used for more than commuting.

To use the annual lease value rule:
a. Determine the fair market value of the vehicle on the first day it is provided to the employee. If the county owns the vehicle, the purchase price, including tax and title fees, is the fair market value (FMV). The cost of special equipment added to the vehicle by the employer is excluded from the valuation.
b. Use the FMV to determine the annual lease values (ALV) per the table in IRS Publication 15-B, which are based on a 4-year lease term. The ALV includes maintenance and insurance, but not fuel.
c. Add the fair market value of fuel the employer provides or 5.5 cent per mile driven to the ALV.

For further information on the annual lease value rule see IRS regulation 1.61-21 (d).

Example:

FMV of the vehicle provided to the employee is $17,500.00
ALV of the vehicle is $4,850.00
Total miles driven: 15,000

Personal miles:	10,000
Business miles:	5,000

10,000 personal miles/15,000 total miles = .66 personal usage

15,000 miles x .055 fuel cost/mile = 825 total fuel

4,850 ALV + 825 fuel = 5,675 total value made available to the employee

5,675 total value x .66 personal usage = 3,745.50 total taxable personal benefit

<u>Substantiation requirements:</u>

Employees using a county vehicle under the cents-per mile or the automobile lease rule must keep a daily travel log that contains the following:

a. Date
b. Beginning mileage
c. Ending mileage
d. Beginning location
e. Ending location
f. Mileage per trip
g. Business purpose of trip
h. Personal purpose of trip – commuting

Monthly a summary of total miles per monthly log should be calculated, with the total miles being broken down to show business miles and personal miles.

Reminder: If records are not maintained by the employee and provided to the employer, the value of all use of the county vehicle is considered taxable wages to the employee.

Duplin County will on an annual basis during the last month of the calendar year, add the personal value of a county provided vehicle to the taxable wages of the employee. Duplin County has elected to not withhold any federal or state income tax from the value of the personal use of the county vehicle provided to the employee. The employee will be billed for the employee share of the Social Security and Medicare tax due on the personal use value of the county provided vehicle.

<u>Law Enforcement Employee Certification to use a Qualified Non-Personal Use Vehicle:</u>

I _________________, Sheriff of Duplin County, certify that _________________ is a full time law enforcement officer, is authorized to carry fire arms, is authorized to execute search warrants, is authorized to make arrests, will regularly carry fire arms, except when it is impossible to do so because of undercover work, and is always "on call" to respond to emergency situations involving the public. I have assigned a ( ) clearly marked police vehicle or a ( ) unmarked law enforcement vehicle to ________________ and I am requiring use of the vehicle for commuting from work to home and from home to work, and I am prohibiting use of the vehicle outside the assigned jurisdiction, except for commuting or for use incidental to law enforcement.

By signature below, the individuals understand: that this certification makes the use of a clearly marked police vehicle or an unmarked law enforcement vehicle a non-taxable fringe benefit for the employee; that this non-taxable fringe benefit may be reviewed by the IRS, by county auditors, etc. at any time; that documentation must exist to support the certifications above; that changes in job duties may affect this certification; that errors in the treatment of non-taxable fringe benefits to an employee can result in back taxes, penalties, and interest, to the county and/or the employee; that will-full failure to comply with IRS regulations can result in personal liability to the individuals having knowledge of the IRS regulations and having knowledge of the job duties. Documentation can be, but is not limited to, job description, time sheets that document the employee is full time law enforcement, and time sheets that document the employee is regularly called out to respond to someplace other than the regular work site to assist in emergency situations involving the public.

______________________________	__________________
Sheriff	Date
______________________________	__________________
Supervisor	Date
______________________________	__________________
Employee	Date

Employee Certification to Use a County Vehicle for Commuting:

I _________________, _________________ of Duplin County, certify that ___________ ____________: is required to commute from work to home and from home to work in a county owned vehicle for the business purpose of ________________________________ ____ ____ ______; is prohibited from any other personal use of this vehicle, except minimal personal use, such as stopping for a personal error on the way between a business stop and home; will be taxed for the personal use of the county vehicle under the IRS commuting value rule, $1.50 one way; will owe to Duplin County the employees part of the social security on the personal vehicle use.

By signature below, the individuals understand: that this certification makes the personal vehicle use when commuting to work from home and from home to work a taxable fringe benefit to the employee; that any other personal use of the county vehicle is prohibited; that the personal use of the county vehicle will be added to the employees taxable income the last month of the calendar year; that the employee will owe the county the employee's share of the social security and Medicare; that Duplin County has elected to not withhold any federal or state income tax from the value of the personal use of the county vehicle provided to the employee; that a change of job duties may affect this determination; that documentation must exist to support the certifications above; that errors in the treatment of non-taxable fringe benefits to an employee can result in back taxes, penalties, and interest, to the county and/or the employee; that will-full failure to comply with IRS regulations can result in personal liability to the individuals having knowledge of the IRS regulations and having knowledge of the job duties; that this non-taxable fringe benefit may be reviewed by the IRS, by county auditors, etc. at any time. Documentation can be, but is not limited to, job description, time sheets that document the employee is full time, time sheets that document the vehicle is needed by the employee to accomplish the business purpose stated above.

______________________________ __________________
County Manager or Department Head Date

______________________________ __________________
Supervisor Date

______________________________ __________________
Employee Date