* * * TRAINING PURPOSES * * *

PVA FAQ Sheet on Taxable Fringe Benefits and 1099 Reporting

(These questions and answers are prepared for the Kentucky PVA Officials and their staff. The guidelines are not official Internal Revenue Service (IRS) publications, but do reflect the current IRS laws pertaining to taxable fringe benefits).

All income is taxable unless specifically excluded by law. This includes benefits deemed to have a personal value. We will specifically address vehicle, clothing benefits and cell phones.

Section I: Vehicle or mileage reimbursement

I. If a PVA drives their own personal vehicle, can they claim miles on their personal taxes instead of receiving mileage reimbursement?

Answer: No. Since the State offers mileage reimbursement, a PVA can not refuse mileage and then claim miles on their personal returns.

II. Can an elected PVA use the commuting rule if they are provided an employer provided vehicle?

Answer: No. The IRS defines elected officials as a "control employee" and as such an elected PVA can not use the commuting rule to determine taxable fringe benefits for an employer provided vehicle. However, any staff that is provided a car can use the commuting rule which is a taxable amount of $1.50 traveling to work and $1.50 traveling to home. In short, $3.00 a day is added to the taxable fringe benefit for the non control employee.

III. What is the best way to handle the elected PVA's employer provided vehicle for taxable fringe benefits?

Answer: The simplest answer is what is best for the PVA. If the PVA resides close to the office the cents per mile method may be the simplest. If you are looking for an easy administrative method, the general valuation rule may be the best.
For a full explanation of all the methods you can go to the following links: http://finance.ky.gov/NR/rdonlyres/A1970694-6B66-4AA0-9D57-E647290E82A2/0/cars.pdf and http://www.irs.gov/pub/irs-tege/fringe_benefit_fslg.pdf

IV. If a vehicle is parked at the office, and only used while working, do we have to worry about taxable fringe benefits?

Answer: No. Since the vehicle is not used for commuting by an individual, there is no tax consequence.

V. How do we determine the cost of a vehicle under a general valuation rule?

Answer: The value of the vehicle is determined on the value as of January 1. The NADA is a good place to get this information.

VI. **<u>REPORTING:</u> THE PERSONAL USE OF THE OFFICE VEHICLE SHOULD BE REPORTED ON A QUARTERLY BASIS TO THE PVA ADMIN. SUPPORT BRANCH, CONTACT DONNA SEEBERGER @ 502-564-6946, IF YOU HAVE ANY QUESTIONS. THE LAST (4TH) QUARTER REPORTING SHOULD BE RECEIVED IN THE PVA ADMIN. SUPPORT BRANCH NO LATER THAN NOVEMBER 16TH.**

Section II: Clothing Allowance

Two criteria must be met in order for any clothing provided by an employer to an employee not to be taxable:

1) The clothes provided must be worn as a condition of employment; **and**

2) The clothes must not be adaptable to street wear. (For example, khaki pants or blue jeans are adaptable to every day wear).

I. Can a PVA purchase shirts for the office staff? **Answer:** "**Yes**" and auditors will allow this expense as long as you do not put the staff member's name on the shirt.

II. Will the shirts be a taxable fringe benefit? **Answer**: "**Yes**" because a polo shirt or button down is adaptable to street wear.

III. What if we make wearing the shirt a condition of their employment? In other words we tell the workers they have to wear the shirts while at work? **Answer**: The shirt is still taxable because it does not meet the two part requirements of being a condition of employment and not adaptable for street wear.

IV. How do we report shirts purchased throughout the calendar year? **Answer:** The cost for each employee will be reported to PVA Administrative Support Branch who will then add it to the taxable fringe portion of an individual's payroll record.

V. **<u>REPORTING:</u> UPON DELIVERY OF PURCHASED OFFICE SHIRTS, THE PVA MUST REPORT TO THE PVA ADMIN. SUPPORT BRANCH. CONTACT DONNA SEEBERGER @ 502-564-6946, IF YOU HAVE ANY QUESTIONS.**

Section III. Cell Phones

Cell phones are "listed property" and have a taxable fringe benefit for personal use. Therefore, you must have an accountable plan if you provide a government cell phone to any employee. If you have a "pool" phone that is used by everyone when out of the office, this provision does not apply.

Currently under the law, any personal use of a government issued cell phone must be accounted for or the entire cost of the phone is a taxable fringe benefit. If you have a cell phone issued to an employee it would be best to contact the PVA Administration Branch to determine the best method to track personal use.

Question: If we just give extra money (say $30 a month for the employee to buy their own cell phone), how do we handle the employment tax issue: **Answer**: The entire $30 amount is a taxable fringe benefit and must be reported as income.

Question: What if we have several cell phones that are issued to employees? How do we determine the cost per cell phone? **Answer**: Take the total cost of the cell phone bill and divide it by the number of cell phones to derive your per phone cost. For example if you have 4 cell phones and the bill for all cell phones is $160 a month, you would have an average cost of $40 per cell phone.

<u>REPORTING:</u> THE PERSONAL USE OF THE OFFICE CELL PHONE SHOULD BE REPORTED ON A QUARTERLY BASIS TO THE PVA ADMIN. SUPPORT BRANCH, CONTACT DONNA SEEBERGER @ 502-564-6946, IF YOU HAVE ANY QUESTIONS. THE LAST (4TH) QUARTER REPORTING SHOULD BE RECEIVED IN THE PVA ADMIN. SUPPORT BRANCH NO LATER THAN NOVEMBER 16TH.

Section IV. 1099 Reporting

According to the IRS, many agencies fail to properly report Form 1099s.

a. Publication 963 (http://www.irs.gov/pub/irs-pdf/p963.pdf)
b. Instructions for Form 1099 – MISC (http://www.irs.gov/pub/irs-pdf/i1099msc.pdf)
c. Highlights
   - All persons engaged in a trade or business must file an information return if payments aggregating $600 or more in a calendar year are made in the course of the trade or business.
   - The name and address of the recipient or payee is to be furnished on demand to the person paying the income. Form W-9, Request for Taxpayer Identification Number and Certification, may be used by the payer to obtain this information from the payee.
   - This includes parts and materials used to render the services.
   - Payors that file 250 or more Forms 1099 must file electronically.

- Payors should keep copies of Forms 1099 filed for at least 3 years from the due date of the returns.
- If backup withholding is imposed, copies of such Forms 1099 should be retained for at least 4 years.
- Penalties are applied when there is a failure to file correct information returns, failure to furnish correct payee statements, and failure to comply with other information reporting requirements.
- Payor must file correct Forms 1099 to payees by 1/31 of the year following payment.
- Payor must file correct Forms 1099 to the Internal Revenue Service on or before 2/28 of the year following payment.

d. Back up withholding

- It "kicks in" when the payee does not provide a tax identification number; or, when the IRS notifies you, the payor of an invalid number.
- Back up withholding applies to "reportable payments"
- Rents and commissions, fees or other forms of compensation for services, and other fixed or determinable gains, profits or income payments are reportable on Form 1099-Misc.
- Back up withholding rate is 28%.
- Use Form 945 to report
- Deposit of amounts withheld follow regular deposit rules
- Separate deposits are required for non-payroll income tax withholding

Additional Questions 1099 Reporting:

1. What are the steps to make sure I am following these tax laws correctly?

Answer: First, get a Form W-9 from everyone you do business with and who provides a service to your office. Once you get the Form W-9, you will be able to determine whether you have a corporation or not. And, if you pay the vendor over $600 in a calendar year, you must issue a Form 1099 for the services provided.

2. What if the vendor enters LLC on their Form W-9? Do we issue a Form 1099?

Answer: Yes, for 1099 reporting purposes the IRS does not recognize LCC or sole proprietors or partnerships. You will need to issue a Form 1099 if the vendor provides $600 or more in services.