

## FISCAL ACCOUNTABILITY RULES

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### RULE 10.6 – TAKE-HOME VEHICLES AND CARPOOLING

#### Purpose

City and County of Denver (City) officers and employees engage in many activities requiring the use of City vehicles. The City is committed to protecting both the City vehicles and especially the people involved in these activities. Under some circumstances, it serves a public purpose to allow officers and employees to take home a City vehicle. The purpose of this rule is to provide guidance to determine if certain employees need a City vehicle to perform their jobs effectively and to provide direction for the use of a City vehicle when the City vehicle is to be driven to an authorized officer's or employee's home and main or regular place of work or from their main or regular place of work to their home.

Use of a City vehicle to commute between an authorized employee's personal residence and main or regular place of work is taxable income to the employee unless the vehicle is a qualified non-personal use vehicle. Unless otherwise expressly stated, the amount of taxable income to the employee will be based on whether the employee is identified as a control or a non-control employee. This classification will determine the taxable valuation used to calculate the employees taxable income.

This rule shall be read in conjunction with the associated [City Business Vehicle Use Procedure](#) to ensure compliance and understanding.

This policy is applicable to every officer and employee utilizing a City vehicle as a take-home and/or carpool vehicle. Every officer and employee operating a City vehicle shall also comply with all provisions of:

- [Fiscal Accountability Rule 10.5 – City Business Vehicle Use](#);
- [Fiscal Accountability Rule 10.7 – Use of Personal Vehicles for City Business](#); and
- [Executive Order 3 – Motor Vehicle Program](#)

Some officers and employees may not generally be subject to Executive Orders (XO). Nonetheless, all officers and employees subject to this Fiscal Accountability Rule (FAR) shall comply with all XOs in this FAR irrespective of the general applicability of XOs to those persons.

## FISCAL ACCOUNTABILITY RULES

### RULE 10.6 – TAKE-HOME VEHICLES AND CARPOOLING, CONTINUED

#### Definitions

**Annual Lease Value Rule** – A valuation method used to calculate the amount of imputed income to report as taxable wages based on the fair market value of the vehicle which is determined according to [IRS Publication 15-B – Employer's Tax Guide to Fringe Benefits](#).

**Commuting** – Commuting is non-business travel, or personal use, and refers to travel between an employee's home and main or regular place of work. When the employee reports to a location other than his/her main or regular place of work, business travel will begin at the first stop and end at the last stop where City business is conducted.

**Commuting Rule** – A valuation method that places a specific value, as determined by the IRS, on each one-way commute when all of the following conditions are met:

- The employee is driving a City vehicle.
- The employee is required to commute to and/or from work for bona fide non-compensatory reasons.
- The employee shall not use the City vehicle for personal purposes, except for commuting and de minimis use.
- The employee is not a control employee.
- The employee shall reimburse the City through a payroll deduction for the commuting value.

If more than one employee commutes in the vehicle, the rule applies to each employee.

**Control Employee** – A City official or an employee who meets or exceeds the annual base salary for the [Federal Government's Executive Level V position](#), or an elected City official.

**De Minimis** – A value so small that accounting for it would be unreasonable or administratively impractical. Examples of de minimis use of an employer-provided vehicle that are excludable include:

- Small personal detour while on business, such as driving to lunch while out of the office on business.
- Infrequent (not more than one day per month) commuting in City owned vehicle. This does not mean that an employee can receive an excludable fringe benefit for commuting 12 days a year. The rule is available to cover infrequent and occasional use.

Commuting use of a City vehicle more than once a month does not qualify as de minimis and would be considered wages to the employee.

## FISCAL ACCOUNTABILITY RULES

### RULE 10.6 – TAKE-HOME VEHICLES AND CARPOOLING, CONTINUED

**Law Enforcement Officer** – An individual who is employed on a full-time basis by the City that is responsible for the prevention or investigation of crime involving injury to persons or property (including apprehension or detention of persons for such crimes), who is authorized by law to carry firearms, execute search warrants, and to make arrests (other than merely a citizen's arrest), and who regularly carries firearms (except when it is not possible to do so because of the requirements of undercover work). The term "law enforcement officer" may include an arson investigator if the investigator otherwise meets the above requirements.

**Public Safety Officer** – An individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, a firefighter, a chaplain, or as a member of a rescue squad or ambulance crew.

**Qualified non-personal use vehicle** – This is a City vehicle that a law enforcement officer, firefighter, or public safety officer is not likely to use more than a de minimis amount for personal purposes because of design and generally includes all of the following types of vehicles:

- Clearly marked police and fire vehicles driven by a law enforcement officer, firefighter, or public safety officer who is always on call and is required by the City to use the vehicle for commuting. Personal use is prohibited for travel outside of the law enforcement officer, firefighter, or public safety officer's jurisdiction.

A clearly marked police, fire, or public safety officer vehicle is a qualified non-personal use vehicle only if the following apply:

- ✓ The law enforcement officer, firefighter, or public safety officer must always be on call.
- ✓ The law enforcement officer, firefighter, or public safety officer must be required by the City to use the vehicle for commuting.
- ✓ The City must prohibit personal use (other than commuting) for travel outside of the law enforcement officer, firefighter, or public safety officer's jurisdiction.

A police, fire, or public safety officer vehicle is clearly marked if, through painted insignia or words, it is readily apparent that the vehicle is a police, fire, or public safety officer vehicle. A marking on a license plate is not a clear marking for this purpose.

- Unmarked vehicles used by law enforcement officers if the use is officially authorized and for law-enforcement purposes only. The vehicle must be used by a full-time law enforcement officer.

Unmarked law enforcement vehicles are qualified non-personal use vehicles only if the following apply:

- ✓ The employer must officially authorize personal use.
- ✓ Personal use must be incidental to use for law-enforcement purposes; i.e., no vacation use.
- ✓ The employer must be a governmental unit responsible for prevention or investigation of crime.

## FISCAL ACCOUNTABILITY RULES

### RULE 10.6 – TAKE-HOME VEHICLES AND CARPOOLING, CONTINUED

- A qualified specialized utility repair truck (not including a van or pickup truck) specifically designed and used to carry heavy tools, testing equipment, or parts and only if the following apply:
  - ✓ The shelves, racks, or other permanent interior construction which has been installed to carry and store such heavy items; and.
  - ✓ The employer requires the employee to commute for emergency call-outs to restore or maintain power services, i.e., gas, water, sewer.
- A truck or van that has been specially modified with permanent shelving which fills most of the cargo area and is designed to constantly carry supplies, parts, or equipment and is clearly marked with the City's insignia.
- An ambulance or hearse used for its specific purpose.
- Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds.
- Delivery trucks with seating for the driver only, or the driver plus a folding jump seat.
- A passenger bus with a capacity of at least 20 passengers used for its specific purpose.
- Construction or specially designed work vehicles, (i.e., bucket trucks, dump trucks, cement mixers, forklifts, garbage trucks).
- School buses.
- Tractors, combines, and other special-purpose farm vehicles.

**Taxable** – Taxable means the benefit is included in the employees' wages and reported on Form W-2, Wage and Tax Statement, and generally is subject to Federal income tax withholding, social security, and Medicare.

#### Rules

##### **Core Rules**

1. Officers and employees shall refer to and follow [Fiscal Accountability Rule 10.5 \(FAR\) – City Business Vehicle Use](#). FAR 10.5 is the main rule for all officers and employees who operate a City vehicle, or use their personal vehicle while conducting City business.

## FISCAL ACCOUNTABILITY RULES

### RULE 10.6 – TAKE-HOME VEHICLES AND CARPOOLING, CONTINUED

2. Department managers, agency heads, and mayoral appointees may be assigned a City vehicle at the discretion of the Mayor.
3. The approval for a City take-home vehicle shall be for the purpose of conducting City business, based on public purpose and demonstrable and beneficial needs. Officers and employees who must report to their main or regular place of work in order to respond to the service response are not authorized to drive a City vehicle home.
4. An officer or employee authorized to use a take-home City vehicle shall meet all of the following:
  - a. The agency or department requires that the driver must respond to emergencies and/or the driver must respond to non-scheduled work program service requests that require an emergency vehicle with specialized equipment needed to protect life and property.
    - i. The emergency or service must necessitate immediate action for the protection of property or the health and safety of the citizens.
    - ii. If authorized emergency or service responses generally occur within specific seasons or months, the City vehicle shall be driven home during those specific seasons or months only.
  - b. The driver's home is within a twenty-five (25) mile radius of his/her main or regular place of work.
  - c. The employee shall either reimburse the City on a bi-weekly basis through a payroll deduction utilizing the Commuting Rule, or the Annual Lease Value will be estimated and added to his/her gross income, unless they drive a qualified non-personal use vehicle.
5. Officers and employees with an authorized City take-home vehicle shall not use the City vehicle for personal use other than for driving from home to work and from work to home and de minimis personal use.
6. On or before June 15<sup>th</sup> of each year the Expending Authority shall review all approved [City Business Vehicle Request and Status Change Forms](#) and shall confirm whether the employee assigned a take-home vehicle continues to meet the requirements of this rule. If the authorization will be renewed the Expending Authority shall submit a new [City Business Vehicle Request and Status Change Form](#) to the Controller's Office Payroll Division for each authorized employee whether newly approved or subject to renewed approval.

## FISCAL ACCOUNTABILITY RULES

### RULE 10.6 – TAKE-HOME VEHICLES AND CARPOOLING, CONTINUED

7. The Mayor or Manager of Safety may authorize use of certain public safety vehicles where the employee's assignment requires immediate response to emergency situations on a 24-hour on-call basis, requiring the use of specialized safety or emergency equipment which must be carried in or on the vehicle. Authorization shall be in writing and shall be valid only during the on-call status.
8. If the employee's authorization to utilize a take-home vehicle has been rescinded, the Expending Authority shall immediately notify the Controller's Office Payroll Division.
9. Adjustments to the personal use rates will not be made for intermittent time off or for time away on City business unless the time off exceeds thirty (30) calendar days.
10. If the driver commutes with passengers who are officers or employees of the City, the driver and passengers shall also be subject to the requirements of the [Carpooling](#) portion of this Rule.

#### **Control Employees**

11. Compensation for Control Employees shall be determined using the Annual Lease Value Rule and will be reported as taxable wages. The Annual Lease Value will be calculated based on a fiscal year. The recognized fiscal year for this rule will be November through October.
12. Control employees are required to track all miles by keeping a log containing the date, destination, mileage (beginning and ending), business miles and commuting miles using the [Take-Home Vehicle Bi-Weekly Trip and Carpool Mileage Log](#). The log(s) shall be submitted to the Controller's Office Payroll Division by November 10<sup>th</sup> of each year.
13. If a control employee fails to complete the [Take-Home Vehicle Bi-Weekly Trip and Carpool Mileage Log](#) for a bi-weekly pay period in which a City vehicle is used, the Annual Lease Value will be estimated and added to his/her gross income.

#### **Non-Control Employees**

14. Compensation for non-control employees, except for those employees that drive a qualified non-personal use vehicle, shall be determined according to the Commuting Rule.

## FISCAL ACCOUNTABILITY RULES

### RULE 10.6 – TAKE-HOME VEHICLES AND CARPOOLING, CONTINUED

15. Non-control employees, except for those employees that drive a qualified non-personal use vehicle, are required to track all miles by keeping a log containing the date, destination, mileage (beginning and ending), business miles and commuting miles using the [Take-Home Vehicle Bi-Weekly Trip and Carpool Mileage Log](#). The log shall be submitted to the employees' supervisor at the end of each bi-weekly work period.
16. If a non-control employee fails to complete the [Take-Home Vehicle Bi-Weekly Trip and Carpool Mileage Log](#) for two subsequent bi-weekly pay periods in which a City vehicle is used, the Annual Lease Value will be computed and added to their gross income. Additionally, the employee will be required to adhere to the Annual Lease Value Method for the remainder of the calendar year.

#### ***Carpooling***

17. Only vehicles that are authorized take-home vehicles and have been assigned and driven to work and home by the employee to whom the vehicle is assigned shall be used for carpooling.
18. City vehicles can be used for carpooling within the City limits with other City officers or employees under either of the following conditions:
  - a. Passengers live in the general area of the driver's residence (approximately a three-mile radius but less than a four-mile radius) and report to work in the area of the driver's workstation.
  - b. Passengers may meet a driver at the driver's residence or any other location along the driver's normal route to work if they don't live in the general area of the driver's residence.
19. The driver shall report bi-weekly commuting mileage, one-way commuting trips, the passengers transported, and other information requested in the [Take-Home Vehicle Bi-Weekly Trip and Carpool Mileage Log](#). The passengers shall certify each one-way commute trip noted and provide their initials.
20. Qualified non-personal use vehicles that have been authorized as take-home vehicles under this Rule cannot be used for carpooling except that employees may transport other employees who are assigned to the same vehicle.

# FISCAL ACCOUNTABILITY RULES

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## RULE 10.6 – TAKE-HOME VEHICLES AND CARPOOLING, CONTINUED

21. The driver and passengers are required to reimburse the City on a bi-weekly basis through payroll deductions for the commute utilizing the Commuting Rule, except if any passenger is a control employee then the Annual Lease Value will be estimated and added to his/her gross income.

### Procedures and Forms

The **Controller's Office** is responsible for any procedures and forms associated with this rule.