

Revenue Ruling 86-97

Qualified nonpersonal use vehicles. Guidelines are set forth to determine whether a pickup truck or van meets the definition of a "qualified nonpersonal use vehicle."

SECTION 1. PURPOSE

The purpose of this revenue ruling is to set forth guidelines for determining when the Internal Revenue Service will recognize certain specially modified pickup trucks or vans as "qualified nonpersonal use vehicles" for purposes of section 1.274-5T (k) (7) of the Temporary Income Tax Regulations. If these guidelines are met, gross income will not include the value of the use by an employee of the employer's "qualified nonpersonal use vehicle."

SEC. 2. BACKGROUND

Section 132 (a) (3) of the Code provides that gross income shall not include any fringe benefit which qualifies as a working condition fringe.

Section 132 (d) of the Code defines a "working condition fringe" as any property or services provided to an employee of the employer to the extent that, if the employee paid for such property or services, such payment would be allowable as a deduction under *section 162* or *167*.

Section 1.132-5T (h) of the Temporary Income Tax Regulations [*2] provides that 100 percent of the value of the use of a qualified nonpersonal use vehicle (as described in section 1.274-5T (k)) is excluded from gross income as a working condition fringe benefit, if in the case of a vehicle described in paragraph section (k) (3) through (7) of 1.274-5T, the use of the vehicle conforms to the requirements of that paragraph.

Section 274 (d) of the Code provides, in part, that a deduction incurred with respect to "listed property" (as defined in *section 280F (d) (4)*) will be disallowed unless substantiated by adequate records or sufficient corroborative evidence. Listed property generally includes any passenger automobile or any other property used as a means of transportation. *Section 274 (d)* does not apply to any qualified nonpersonal use vehicle as defined in *section 274 (i)*.

Section 274 (i) of the Code provides that the term "qualified nonpersonal use vehicle" means any vehicle which, by reason of its nature, is not likely to be used more than a de minimis amount for personal purposes.

Section 1.274-5T (k) (1) of the regulations excepts a "qualified nonpersonal use vehicle" from the substantiation requirements of *section 274 (d) of the Internal Revenue Code*.

Section 1.274-5T (k) (2) [*3] of the regulations provides that for purposes of *section 274 (d) of the Code* and the regulations the term "qualified nonpersonal use vehicle" means any vehicle which, by reason of its nature (that is, design), is not likely to be used more than a de minimis amount for personal purposes.

Section 1.274-5T (k) (2) (ii) (C) of the regulations provides that any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds is a qualified nonpersonal use vehicle.

Section 1.274-5T (k) (7) of the regulations provides that the substantiation requirements of *section 274 (d) of the Code* will not apply to any pickup truck or van only if it has been specially modified with the result that it is not likely to be used more than a de minimis amount for personal purposes.

The exception from the substantiation requirements of *section 274 (d) of the Code* and the exclusion from gross income as a working condition fringe benefit under *section 132* apply to the use of a qualified nonpersonal use vehicle because of its design and not because of the nature of the employee's services (such as being on 24-hour call).

SEC. 3. GUIDELINES

.01 A pickup truck with a loaded gross vehicle weight not [*4] over 14,000 pounds is a qualified nonpersonal use vehicle if it falls into one of the following two categories:

1. The vehicle is clearly marked with permanently affixed decals or with special painting or other advertising associated with the employer's trade, business, or function and is equipped with at least one of the following: a hydraulic lift gate, permanently installed tanks or drums, permanently installed side boards or panels materially raising the level of the sides of the bed of the pickup truck, or other heavy equipment, such as an electric generator, welder, boom, or crane used to tow automobiles and other vehicles.
2. The vehicle is clearly marked with permanently affixed decals or with special painting or other advertising associated with the employer's trade, business, or function, is actually used primarily for transporting a particular type of load other than over the public highway in connection with a construction, manufacturing, processing, farming, mining, drilling, timbering, or other similar operation, and has been specially designed or modified to a significant degree for such use.

.02 A van with a loaded gross vehicle weight not over 14,000 pounds is a qualified [*5] nonpersonal use vehicle if it is clearly marked with permanently affixed decals or with special painting or other advertising associated with the employer's trade, business, or function, it has a seat only for the driver or the driver and one other person, and either permanent shelving has been installed that fills most of the cargo area or the cargo area is open and the van constantly (during both working and non-working hours) carries merchandise, material, or equipment used in the employer's trade, business, or function.

SEC. 4. APPLICATION

.01 As stated in Sec. 3 above, the Internal Revenue Service will recognize a pickup truck as a qualified nonpersonal use vehicle for purposes of section 1.274-5T (k) (7) of the regulations if the pickup truck meets either of the two categories in Sec. 3.01 of this revenue ruling. Similarly, the Service will recognize a van as a qualified nonpersonal use vehicle if the van meets Sec. 3.02 of this revenue ruling. In such cases, the exception from the substantiation requirements of *section 274 (d) of the Code* and the exclusion from gross income as a working condition fringe

benefit under *section 132* apply to the employee's use of the qualified nonpersonal [*6] use vehicle.

.02 A pickup truck or van that does not meet the criteria in Sec. 3 of this revenue ruling may still be a qualified nonpersonal use vehicle if, based upon the particular facts, it satisfies requirements similar to those of this revenue ruling. In such cases, the taxpayer should contact the local district director for further guidance.

.03 The vehicles described in Sec. 3 of this revenue ruling are those owned or leased by employers, including governmental units or any agency or instrumentality thereof.

SEC. 5. EFFECTIVE DATE

For purposes of both *sections 132 (a) (3)* and *274 (d) of the Code*, this ruling is effective for vehicle use occurring on or after January 1, 1985.