*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

* * * * *

**AGL MN E5 Winona, MN [Amended]**

Winona Municipal Airport-Max Conrad Field, MN
(Lat. 44°04′47″ N, long. 91°42′42″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Winona Municipal Airport-Max Conrad Field, and within 4 miles each side of the 119° bearing from the airport extending from the 6.6-mile radius to 11.6 miles southeast the airport, and within 2 miles each side of the 299° bearing from the airport extending from the 6.6-mile radius to 9.3 miles northwest of the airport.

Issued in Fort Worth, Texas, on January 29, 2020.

**Steve Szukala,**

*Acting Manager, Operations Support Group, ATO Central Service Center.*

[FR Doc. 2020–02130 Filed 2–4–20; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[TD 9893]**

**RIN 1545–BP14**

## Determination of the Maximum Value of a Vehicle for Use With the Fleet-Average and Vehicle Cents-Per-Mile Valuation Rules

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulation.

**SUMMARY:** This document sets forth final regulations regarding special valuation rules for employers and employees to use in determining the amount to include in an employee's gross income for personal use of an employer-provided vehicle. The final regulations reflect changes made by the Tax Cuts and Jobs Act (TCJA).

**DATES:** *Effective Date:* These regulations are effective February 5, 2020.

*Applicability Date:* For dates of applicability, see § 1.61–21(d)(5)(v)(H) and § 1.61–21(e)(6).

**FOR FURTHER INFORMATION CONTACT:** Stephanie Caden at (202) 317–4774 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

If an employer provides an employee with a vehicle that is available to the employee for personal use, the value of the personal use must generally be included in the employee's income under section 61 of the Internal Revenue Code (the Code). In addition, benefits paid as remuneration for employment, including the personal use of employer-provided vehicles, generally are wages for purposes of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA) and the Collection of Income Tax at Source on Wages (federal income tax withholding). Sections 3121(a), 3306(b), and 3401(a).

The amount that must be included in the employee's income and wages for the personal use of an employer-provided vehicle generally is determined by reference to the vehicle's fair market value (FMV). However, for many years, § 1.61–21 has provided special valuation rules for employer-provided vehicles (the prior final regulations).[1] If an employer chooses to use a special valuation rule, the special value is treated as the FMV of the benefit for income tax and employment tax purposes. § 1.61–21(b)(4). As discussed further in this Background section of this preamble, two such special valuation rules, the fleet-average valuation rule and the vehicle cents-per-mile valuation rule, are set forth in § 1.61–21(d)(5)(v) and § 1.61–21(e), respectively. These two special valuation rules are subject to limitations, including that they may be used only in connection with vehicles having values that do not exceed a maximum amount set forth in the regulations.

Section 1.61–21(e)(1)(iii)(A) of the prior final regulations provided that the vehicle cents-per-mile valuation rule could be used only to value the personal use of a vehicle having a value no greater than $12,800 (the sum of the maximum recovery deductions allowable under section 280F(a)(2) for the recovery period of the vehicle). Section 1.61–21(d)(5)(v)(D) of the prior final regulations provided that the fleet-average valuation rule could be used only to value the personal use of vehicles having values no greater than $16,500. (The fleet-average valuation rule uses the term ''automobile'' rather than ''vehicle.'' For convenience, this preamble uses the term ''vehicle'' except in specific discussions of the fleet-average valuation rule or the section 280F depreciation limitations.) Sections 1.61–21(d)(5)(v)(D) and 1.61–21(e)(1)(iii)(A) of the prior final regulations provided that each of these maximum values was adjusted annually pursuant to section 280F(d)(7).

*1. The Fleet-Average Valuation Rule*

The fleet-average valuation rule is an optional component of a special valuation rule called the automobile lease valuation rule set forth in § 1.61–21(d). Under the automobile lease valuation rule, the value of the personal use of an employer-provided automobile available to an employee for an entire year is the portion of the annual lease value determined under the regulations (Annual Lease Value) relating to the availability of the automobile for personal use. Furthermore, provided the FMV of the automobile does not exceed the maximum value permitted under § 1.61–21(d)(5)(v), an employer with a fleet of 20 or more automobiles may use a fleet-average value for purposes of calculating the Annual Lease Value of any automobile in the fleet.

The fleet-average value is the average of the fair market values of all the automobiles in the fleet. However, § 1.61–21(d)(5)(v)(D) of the prior final regulations provided that the value of an employee's personal use of an automobile could not be determined under the fleet-average valuation rule for a calendar year if the FMV of the automobile on the first date the automobile was made available to the employee exceeded the base value of $16,500, as adjusted annually pursuant to section 280F(d)(7). Section 1.61–21(d)(5)(v)(D) provided that the first such adjustment would be for calendar year 1989, subject to minor modifications to the section 280F(d)(7) formula specified in the regulations. In other words, under the prior final regulations, the maximum value for use of the fleet-average valuation rule was the base value of $16,500, as adjusted annually under section 280F(d)(7) every year since 1989.

Prior to enactment of TCJA, the automobile price inflation adjustment of section 280F(d)(7)(B) was calculated using the ''new car'' component of the Consumer Price Index (CPI) ''automobile component.'' Beginning in 2005, the IRS began to calculate the price inflation adjustment for trucks and vans separately from cars using the ''new truck'' component of the CPI, and continued using the ''new car'' component of the CPI for automobiles other than trucks and vans. See Rev. Proc. 2005–48, 2005–32 I.R.B. 271. For 2017, the year of the enactment of TCJA, the maximum value for use of this rule was $21,100 for a passenger automobile and $23,300 for a truck or van. See Notice 2017–03, 2017–2 I.R.B. 368.

[1] T.D. 8256, 54 FR 28576, July 6, 1989, as amended by T.D. 8389, 57 FR 1868, Jan. 16, 1992; T.D. 8457, 57 FR 62192, Dec. 30, 1992; T.D. 9597, 77 FR 45480, Aug. 1, 2012; T.D. 9849, 84 FR 9231, March 14, 2019.

Section 1.61–21(d)(5)(v)(B) provides that the fleet-average valuation rule may be used by an employer as of January 1 of any calendar year following the calendar year in which the employer acquires a sufficient number of automobiles to total a fleet of 20 or more, each one satisfying the maximum value requirement of § 1.61–21(d)(5)(v)(D). The Annual Lease Value calculated for automobiles in the fleet, based on the fleet-average value, must remain in effect for the period that begins with the first January 1 the fleet-average valuation rule is applied by the employer to the automobiles in the fleet and ends on December 31 of the subsequent calendar year. The Annual Lease Value for each subsequent two-year period is calculated by determining the fleet average value of the automobiles in the fleet as of the first January 1 of such period. An employer may cease using the fleet-average valuation rule as of any January 1.

*2. The Vehicle Cents-Per-Mile Valuation Rule*

Another special valuation rule is the vehicle cents-per-mile rule in § 1.61–21(e). Under § 1.61–21(e), if an employer provides an employee with the use of a vehicle that the employer reasonably expects will be regularly used in the employer's trade or business throughout the calendar year (or such shorter period as the vehicle may be owned or leased by the employer), or that satisfies the requirements of § 1.61–21(e)(1)(ii) (*i.e.,* the vehicle is actually driven at least 10,000 miles in the year and use of the vehicle during the year is primarily by employees), the value of the personal use may be determined based on the applicable standard mileage rate multiplied by the total number of miles the vehicle is driven by the employee for personal purposes.

Section 1.61–21(e)(1)(iii)(A) provides that the value of the personal use may not be determined under the vehicle cents-per-mile valuation rule for a calendar year if the fair market value of the vehicle on the first date the vehicle is made available to the employee exceeds the sum of the maximum recovery deductions allowable under section 280F(a) for a five-year period for an automobile first placed in service during that calendar year (whether or not the automobile is actually placed in service during that year), as adjusted by section 280F(d)(7). The prior final regulations provided that, under this rule, with respect to a vehicle placed in service in or after 1989, the limitation on value was $12,800, as adjusted under section 280F(d)(7). In other words, under the prior final regulations, the maximum value of a vehicle for use of the vehicle cents-per-mile valuation rule was the base value of $12,800, as adjusted annually under section 280F(d)(7) since 1989. As with the fleet-average valuation rule, beginning in 2005, the IRS calculated the price inflation adjustment for trucks and vans separately from cars. See Rev. Proc. 2005–48. For 2017, the maximum value for use of the vehicle cents-per-mile valuation rule was $15,900 for a passenger automobile and $17,800 for a truck or van. See Notice 2017–03.

Section 1.61–21(e)(5)(i) states that an employer must adopt the vehicle cents-per-mile valuation rule for a vehicle to take effect by the first day on which the vehicle is used by an employee of the employer for personal use (or, if another special valuation rule called the commuting valuation rule of § 1.61–21(f) is used when the vehicle is first used by an employee of the employer for personal use, the first day on which the commuting valuation rule is not used). Section 1.61–21(e)(5)(ii) also provides, in part, that once the vehicle cents-per-mile valuation rule has been adopted for a vehicle by an employer, the rule must be used by the employer for all subsequent years in which the vehicle qualifies for use of the rule, except that the employer may, for any year during which use of the vehicle qualifies for the commuting valuation rule of § 1.61–21(f), use the commuting valuation rule with respect to the vehicle.

*3. TCJA Changes and the Maximum Vehicle Values for 2018 and 2019*

TCJA made the following amendments to the Code:

(1) For owners of passenger automobiles, section 280F(a), as modified by section 13202(a)(1) of TCJA, imposes dollar limitations on the depreciation deduction for the year the taxpayer places the passenger automobile in service and for each succeeding year. The amendments made by TCJA substantially increase the maximum annual dollar limitations on the depreciation deductions for passenger automobiles. The new dollar limitations are based on the depreciation, over a five-year recovery period, of a passenger automobile with a cost of $50,000 (formerly $12,800, as adjusted).

(2) Section 11002(d)(8) of TCJA amended section 280F(d)(7)(B) effective for tax years beginning after December 31, 2017. Pursuant to these amendments, the price inflation amount for automobiles (including trucks and vans) is calculated using both the CPI automobile component and the Chained Consumer Price Index for All Urban Consumers (C–CPI–U) automobile component.

a. Notice 2019–08—The Maximum Value for 2018

To implement the changes described above, Notice 2019–08, 2019–3 I.R.B. 354, provides interim guidance for 2018 on new procedures for calculating the price inflation adjustments to the maximum vehicle values for use with the special valuation rules under § 1.61–21(d) and (e) using section 280F(d)(7), as modified by sections 11002 and 13202 of the Act. Notice 2019–08 states that the Treasury Department and the IRS anticipate that further guidance will be issued in the form of proposed regulations and expect that the regulations will be consistent with the rules set forth in Notice 2019–08.

Notice 2019–08 provides that, consistent with the substantial increase in the dollar limitations on depreciation deductions under section 280F(a), as modified by section 13202(a)(1) of TCJA, the Treasury Department and the IRS intend to amend § 1.61–21(d) and (e) to incorporate a higher base value of $50,000 as the maximum value for use of the vehicle cents-per-mile and fleet-average valuation rules effective for the 2018 calendar year. Notice 2019–08 further states that the Treasury Department and the IRS intend that the regulations will be modified to provide that this $50,000 base value will be adjusted annually using section 280F(d)(7) for 2019 and subsequent years. Accordingly, Notice 2019–08 provides that, for 2018, the maximum value for use of the vehicle cents-per-mile and fleet-average valuation rules is $50,000.

Finally, for 2018 and 2019, Notice 2019–08 provides that the Treasury Department and the IRS will not publish separate maximum values for trucks and vans for use with the fleet-average and vehicle cents-per-mile valuation rules. As noted above, TCJA amended section 280F(d)(7)(B) to make inflation adjustments based on the CPI and C–CPI–U automobile component. The C–CPI–U automobile component does not currently have separate components for new cars and new trucks. Accordingly, due to the lack of data, the Treasury Department and the IRS will publish only one maximum value of a vehicle for use with the vehicle cents-per-mile and fleet-average valuation rules beginning in 2019.

b. Notice 2019–34—The Maximum Vehicle Value for 2019

Notice 2019–34, 2019–22 I.R.B. 1257, provides that the inflation-adjusted

maximum value of an employer-provided vehicle (including cars, vans, and trucks) first made available to employees for personal use in calendar year 2019 for which the vehicle cents-per-mile valuation rule provided under § 1.61–21(e), or the fleet-average valuation rule provided under § 1.61–21(d), may be used, is $50,400. Notice 2019–34 also provides information about the manner in which the Treasury Department and the IRS intend to publish this maximum vehicle value in the future.

As noted in Notice 2019–34, Rev. Proc. 2010–51, 2010–51 I.R.B. 883, as modified by Rev. Proc. 2019–46, 2019–49 I.R.B. 1301, provides rules for using optional standard mileage rates in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes. Section 2.12(1) of Rev. Proc. 2010–51 provides that the IRS publishes both the standard mileage rates for the use of an automobile for business, charitable, medical, and moving expense purposes, and the maximum standard automobile cost that may be used in computing the allowance under a fixed and variable rate (FAVR) plan, in a separate annual notice. See, *e.g.,* Notice 2019–02, 2019–02 I.R.B. 281.

Notice 2019–34 indicates that, in amending § 1.61–21(d) and (e) to incorporate a higher base value of $50,000 as the maximum value for use with the vehicle cents-per-mile and the fleet-average valuation rules, the IRS and Treasury Department expect that the maximum value for use of those rules for 2019 and subsequent years will be the same as the maximum standard automobile cost that may be used in computing the allowance under a FAVR plan. Accordingly, Notice 2019–34 provides that the maximum value for use with the fleet-average and vehicle cents-per-mile valuation rules will be published in the annual notice providing the standard mileage rates for use of an automobile for business, charitable, medical, and moving expense purposes and the maximum standard automobile cost that may be used in computing the allowance under a FAVR plan.

Notice 2019–34 also provides that the Treasury Department and the IRS intend to revise § 1.61–21(d) to include a transition rule for any employer that did not qualify to use the fleet-average valuation rule prior to January 1, 2018 because the inflation-adjusted maximum value requirement of § 1.61–21(d)(5)(v)(D), as published by the IRS in a notice or revenue procedure applicable to the year the automobile was first made available to any employee of the employer, was not met. In such a case, under the transition rule, the employer may adopt the fleet-average valuation rule for 2018 or 2019, provided the requirements of § 1.61–21(d)(5)(v) are met for that year using the maximum values set forth in Notice 2019–08 ($50,000) or Notice 2019–34 ($50,400), respectively.

In addition, Notice 2019–34 states that the Treasury Department and the IRS intend to revise § 1.61–21(e) to provide a transition rule for vehicles first made available to employees for personal use before calendar year 2018, if the employer did not qualify under § 1.61–21(e)(5) to adopt the vehicle cents-per-mile valuation rule for the vehicle on the first day on which the vehicle was used by the employee for personal use because the fair market value of the vehicle exceeded the inflation-adjusted limitation of § 1.61–21(e)(1)(iii) as published by the IRS in a notice or revenue procedure applicable to the year the vehicle was first used by the employee for personal use. In such a case, under the transition rule, the employer may first adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year based on the maximum fair market value of a vehicle for purposes of the vehicle cents-per-mile valuation rule set forth in Notice 2019–08 ($50,000) or Notice 2019–34 ($50,400), respectively.

Similarly, Notice 2019–34 also provides that the Treasury Department and the IRS intend to amend § 1.61–21(e) to provide a transition rule for a vehicle first placed in service before calendar year 2018 if the commuting valuation rule of § 1.61–21(f) was used when the vehicle was first used by an employee of the employer for personal use, and the employer did not qualify to switch to the vehicle cents-per-mile valuation rule on the first day on which the commuting valuation rule was not used because the vehicle had a fair market value in excess of the inflation-adjusted maximum permitted under § 1.61–21(e)(1)(iii) as published by the IRS in a notice or revenue procedure applicable to the year the commuting valuation rule was first not used. Under the transition rule, the employer may adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year based on the maximum fair market value of the vehicle for purposes of the vehicle cents-per-mile valuation rule set forth in Notice 2019–08 or Notice 2019–34, respectively.

With respect to the transition rules described above, Notice 2019–34 adds that, consistent with § 1.61–21(e)(5), an employer that adopts the vehicle cents-per-mile valuation rule must continue to use the rule for all subsequent years in which the vehicle qualifies for use of the rule, except that the employer may, for any year during which use of the vehicle qualifies for the commuting valuation rule of § 1.61–21(f), use the commuting valuation rule with respect to the vehicle.

*4. Notice of Proposed Rulemaking*

On August 23, 2019, a notice of proposed rulemaking was published in the **Federal Register** (84 FR 44258) that was consistent with Notice 2019–08 and Notice 2019–34 and reflected changes made by TCJA to the depreciation limitations in section 280F. The notice of proposed rulemaking proposed revisions to § 1.61–21(d) and § 1.61–21(e) to increase, effective for the 2018 calendar year, the maximum base fair market value of a vehicle for use of the fleet-average and vehicle cents-per-mile valuation rules to $50,000. The proposed regulations further provided that the maximum fair market value of a vehicle for use of the fleet-average and vehicle cents-per-mile valuation rules will be adjusted annually under section 280F(d)(7), as amended by the TCJA, and the adjusted maximum fair market value will be included in the annual notice published by the IRS providing the standard mileage rates for the use of an automobile for business, charitable, medical, and moving expense purposes and the maximum standard automobile cost for purposes of an allowance under a FAVR plan. See, *e.g.,* Notice 2019–02. Additionally, the proposed regulations provide transition rules that permit employers that could not adopt the fleet-average or vehicle cents-per-mile valuation rules prior to 2018 (because a vehicle had a fair market value in excess of the maximum permitted under the prior final regulations), to use the special valuation rules for the first time in 2018 or 2019.

No public hearing on the proposed regulations was requested or held. No comments responding to the proposed regulations were received. Therefore, the proposed regulations are adopted as final regulations without substantive change.

**Explanation of Provisions**

These final regulations update the fleet-average and vehicle cents-per-mile valuation rules described in § 1.61–21(d) and (e), respectively, to align the limitations on the maximum vehicle fair market values for use of these special valuation rules with the changes made by the Act to the depreciation limitations in section 280F. Specifically, consistent with the substantial increase in the dollar limitations on depreciation

deductions under section 280F(a), these final regulations increase, effective for the 2018 calendar year, the maximum base fair market value of a vehicle for use of the fleet-average or vehicle cents-per-mile valuation rule to $50,000. Consistent with §§ 1.61–21(d)(5)(v)(D) and 1.61–21(e)(1)(iii)(A) of prior final regulations, the maximum fair market value of a vehicle for purposes of the fleet-average and vehicle cents-per-mile valuation rules is adjusted annually under section 280F(d)(7). This annual adjustment will be calculated in accordance with section 280F(d)(7) as amended by TCJA.

Consistent with the expectation expressed in Notice 2019–34 and in the notice of proposed rulemaking, the inflation-adjusted maximum fair market value for a vehicle for purposes of the fleet-average and vehicle cents-per-mile valuation rules will be included in the annual notice published by the IRS providing the standard mileage rates for the use of an automobile for business, charitable, medical, and moving expense purposes and the maximum standard automobile cost for purposes of an allowance under a FAVR plan. See, *e.g.,* Notice 2019–02.

Furthermore, consistent with Notice 2019–34 and the proposed regulations, the following transition rules are included in these final regulations:

(1) With respect to the fleet-average valuation rule, if an employer did not qualify to use the fleet-average valuation rule prior to January 1, 2018, with respect to an automobile because the fair market value of the automobile exceeded the inflation-adjusted maximum value requirement of § 1.61–21(d)(5)(v)(D), as published by the IRS in a notice or revenue procedure applicable to the year the automobile was first made available to any employee of the employer, the employer may adopt the fleet-average valuation rule for 2018 or 2019, provided the fair market value of the automobile does not exceed $50,000 on January 1, 2018, or $50,400 on January 1, 2019, respectively.

(2) With respect to the vehicle cents-per-mile valuation rule, for a vehicle first made available to any employee of the employer for personal use before calendar year 2018, if an employer did not qualify under § 1.61–21(e)(5) to adopt the vehicle cents-per-mile valuation rule on the first day on which the vehicle was used by the employee for personal use because the fair market value of the vehicle exceeded the inflation-adjusted limitation of § 1.61–21(e)(1)(iii), as published by the IRS in a notice or revenue procedure applicable to the year the vehicle was first used by the employee for personal use, the employer may first adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year with respect to the vehicle, provided the fair market value of the vehicle does not exceed $50,000 on January 1, 2018, or $50,400 on January 1, 2019, respectively. Similarly, if the commuting valuation rule of § 1.61–21(f) was utilized when the vehicle was first used by an employee of the employer for personal use, and the employer did not qualify to switch to the vehicle cents-per-mile valuation rule on the first day on which the commuting valuation rule was not used because the vehicle had a fair market value in excess of the inflation-adjusted limitation of § 1.61–21(e)(1)(iii), as published by the IRS in a notice or revenue procedure applicable to the year the commuting valuation rule was first not used, the employer may adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year, provided the fair market value of the vehicle does not exceed $50,000 on January 1, 2018, or $50,400 on January 1, 2019, respectively. However, consistent with § 1.61–21(e)(5), an employer that adopts the vehicle cents-per-mile valuation rule must continue to use the rule for all subsequent years in which the vehicle qualifies for use of the rule, except that the employer may, for any year during which use of the vehicle qualifies for the commuting valuation rule of § 1.61–21(f), use the commuting valuation rule with respect to the vehicle.

## Special Analyses

These final regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and the Office of Management and Budget regarding review of tax regulations.

It is hereby certified that these final regulations will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). This certification is based on the fact that the final regulations update existing regulations to comport with the statutory changes to section 280F made by the Act. Although the final regulations might affect a substantial number of small entities, the economic impact of the final regulations is not expected to be significant.

Since the current vehicle valuation rules in the regulations are tied to inflation adjustments under section 280F, the statutory changes to section 280F necessitate modifications to the procedures for calculating annual inflation adjustments to the maximum fair market value of a vehicle permitted for use with the fleet-average and vehicle cents-per-mile special valuation rules. These revised special valuation rules are consistent with the base values and methodology used for section 280F purposes and simplify the determination of the amount employers must include in employees' income and wages for income and employment tax purposes for the personal use of employer-provided vehicles. The modifications made by these final regulations to the maximum fair market value of a vehicle permitted for use with the fleet-average and vehicle cents-per-mile special valuation rules, and the transition rules provided in connection with these final regulations, increase the number of employers and employees that may take advantage of the special valuation rules, without increasing costs to the employer.

Pursuant to section 7805(f), the proposed regulations preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. No comments were received.

## Drafting Information

The principal author of these regulations is Stephanie Caden of the Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Tax). However, other personnel from the IRS and the Treasury Department participated in their development.

## Statement of Availability

The IRS Notices, Revenue Procedures and the Notice of Proposed Rulemaking cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov.*

## List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR part 1 is amended as follows:

## PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805* * *

■ **Par. 2.** Section 1.61–21 is amended by revising paragraph (d)(5)(v)(D), adding

paragraphs (d)(5)(v)(G) and (H), revising paragraph (e)(1)(iii)(A), revising paragraph (e)(5)(i), and adding paragraphs (e)(5)(vi) and (e)(6), to read as follows:

**§ 1.61–21 Taxation of fringe benefits.**

* * * * *

(d) * * *

(5) * * *

(v) * * *

(D) *Limitations on use of fleet-average rule.* The rule provided in this paragraph (d)(5)(v) may not be used for any automobile the fair market value of which (determined pursuant to paragraphs (d)(5)(i) through (iv) of this section as of the first date on which the automobile is made available to any employee of the employer for personal use) exceeds $50,000, as adjusted by section 280F(d)(7). The first such adjustment shall be for calendar year 2019. In addition, the rule provided in this paragraph (d)(5)(v) may only be used for automobiles that the employer reasonably expects will regularly be used in the employer's trade or business. For rules concerning when an automobile is regularly used in the employer's business, see paragraph (e)(1)(iv) of this section.

* * * * *

(G) *Transition rule for 2018 and 2019.* Notwithstanding paragraph (d)(5)(v)(B) of this section, an employer that did not qualify to use the fleet-average valuation rule prior to January 1, 2018, with respect to any automobile (including a truck or van) because the fair market value of the vehicle exceeded the inflation-adjusted maximum value requirement of paragraph (d)(5)(v)(D) of this section, as published by the Service in a notice or revenue procedure applicable to the year the vehicle was first made available to any employee of the employer, may adopt the fleet-average valuation rule for 2018 or 2019 with respect to the vehicle, provided the fair market value of the vehicle does not exceed $50,000 on January 1, 2018, or $50,400 on January 1, 2019, respectively.

(H) *Applicability date.* Paragraphs (d)(5)(v)(D), and (G) of this section apply to taxable years beginning on or after February 5, 2020. Notwithstanding the first sentence of this paragraph (d)(5)(v)(H), any taxpayer may choose to apply paragraph (d)(5)(v)(G) of this section beginning on or after January 1, 2018.

* * * * *

(e) * * *

(1) * * *

(iii) * * *

(A) *In general.* The value of the use of an automobile (as defined in paragraph (d)(1)(ii) of this section) may not be determined under the vehicle cents-per-mile valuation rule of this paragraph (e) for a calendar year if the fair market value of the automobile (determined pursuant to paragraphs (d)(5)(i) through (iv) of this section as of the first date on which the automobile is made available to any employee of the employer for personal use) exceeds $50,000, as adjusted by section 280F(d)(7). The first such adjustment shall be for calendar year 2019.

* * * * *

(5) * * *

(i) *Use of the vehicle cents-per-mile valuation rule by an employer.* An employer must adopt the vehicle cents-per-mile valuation rule of this paragraph (e) for a vehicle to take effect by the first day on which the vehicle is used by an employee of the employer for personal use (or, if the commuting valuation rule of paragraph (f) of this section is used when the vehicle is first used by an employee of the employer for personal use, the first day on which the commuting valuation rule is not used).

* * * * *

(vi) *Transition rule for 2018 and 2019.* For a vehicle first made available to any employee of an employer for personal use before calendar year 2018, an employer that did not qualify under this paragraph (e)(5) to adopt the vehicle cents-per-mile valuation rule on the first day on which the vehicle is used by the employee for personal use because the fair market value of the vehicle exceeded the inflation-adjusted limitation of paragraph (e)(1)(iii) of this section, as published by the Service in a notice or revenue procedure applicable to the year the vehicle was first used by the employee for personal use, may first adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year, provided the fair market value of the vehicle does not exceed $50,000 on January 1, 2018, or $50,400 on January 1, 2019, respectively. Similarly, for a vehicle first made available to any employee of the employer for personal use before calendar year 2018, if the commuting valuation rule of paragraph (f) of this section was used when the vehicle was first used by the employee for personal use, and the employer did not qualify to switch to the vehicle cents-per-mile valuation rule of this paragraph (e) on the first day on which the commuting valuation rule of paragraph (f) of this section was not used because the vehicle had a fair market value in excess of the inflation-adjusted limitation of paragraph (e)(1)(iii) of this section, as published by the Service in a notice or revenue procedure applicable to the year the commuting valuation rule was first not used, the employer may adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year, provided the fair market value of the vehicle does not exceed $50,000 on January 1, 2018, or $50,400 on January 1, 2019, respectively. However, in accordance with paragraph (e)(5)(ii) of this section, an employer that adopts the vehicle cents-per-mile valuation rule pursuant to this paragraph (e)(5)(vi) must continue to use the rule for all subsequent years in which the vehicle qualifies for use of the rule, except that the employer may, for any year during which use of the vehicle qualifies for the commuting valuation rule of paragraph (f) of this section, use the commuting valuation rule with regard to the vehicle.

(6) *Applicability date.* Paragraphs (e)(1)(iii)(A) and (e)(5)(i) and (vi) of this section apply to taxable years beginning on or after February 5, 2020. Notwithstanding the first sentence of this paragraph (e)(6), any taxpayer may choose to apply paragraph (e)(5)(vi) of this section beginning on or after January 1, 2018.

* * * * *

**Sunita Lough,**

*Deputy Commissioner for Services and Enforcement.*

Approved: January 17, 2020.

**David J. Kautter,**

*Assistant Secretary of the Treasury (Tax Policy).*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Parts 100 and 165

**[USCG–2019–0916]**

## 2019 Quarterly Listings; Safety Zones, Security Zones, and Special Local Regulations

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notification of expired temporary rules issued.

**SUMMARY:** This document provides notification of substantive rules issued by the Coast Guard that were made temporarily effective but expired before they could be published in the **Federal Register**. This document lists temporary safety zones, security zones, and special local regulations, all of limited duration