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KANSAS

United States Senate

OFFICE OF THE MAJORITY LEADER
WASHINGTON, DC 20510

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M E M O R A N D U M

TO: SENATOR DOLE
FROM: RICH BELAS
SUBJECT: TREASURY RECORDKEEPING PRESS RELEASE

The Treasury press release differs from the discussion this morning on the following points:

1. The gross income test for farmers is 70 percent of income other than passive income. There is no mention of excluding the spouse's income. Exclusion of the spouse's income will be mentioned in the new regulations.
2. The 80 percent business use safe harbor for farm trucks is extended to trucks and commercial vehicles used in other businesses. This should avoid complaints that farmers receive preferential treatment.
3. The safe harbor available when only 70 percent of expenses related to an automobile is deducted is limited to taxpayers who spend most of a normal day using the vehicle. This responds to the concern that office workers, like accountants or doctors, otherwise would take advantage of the safe harbor.
4. There is no mention of reducing the \$4 per day inclusion for commuting expenses. Pearlman told me you can say that you understand this will be reduced to \$3 per day.

News Release

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Washington--The Internal Revenue Service today announced that next week it expects to issue temporary and proposed regulations modifying the requirement to keep "adequate contemporaneous records" for automobiles and certain other vehicles. These regulations will modify the recordkeeping required to satisfy section 274(d)(4) of the Internal Revenue Code. They will also provide four special rules when patterns of use justify eliminating or substantially reducing the recordkeeping requirement.

Under section 274(d)(4) of the Code, taxpayers must substantiate any deduction or credit claimed with respect to automobiles or certain other vehicles by "adequate contemporaneous records." Today's announcement says that taxpayers may satisfy this requirement by single entries for periods of uninterrupted business use. For example, a person who makes a series of deliveries, returns to the office, and then makes additional deliveries, may account for such use by making a single entry in a log or other record. Similarly, a salesperson away from home on a business trip may make a single entry in a log for the entire trip.

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The regulations will also provide four special rules when the recordkeeping requirement will be eliminated or substantially reduced.

Farm vehicles. Taxpayers can satisfy the recordkeeping requirement in two ways for a vehicle that the taxpayer regularly uses directly in the business of farming, such as a truck. Farmers may either (i) keep records of personal use of a vehicle, or (ii) keep no records and treat 80 percent of the use of a vehicle as business use and 20 percent as personal use. These rules are available to farmers who receive more than 70 percent of their gross income (excluding income from passive investment sources) from farming. Even though these rules do not apply to automobiles used by farmers, such automobiles may be covered by the special rule for sales and service automobiles described below.

No personal use. Taxpayers who use a vehicle in a trade or business need not keep a log if the vehicle is kept at the employer's business premises during non-business hours and the vehicle is not used for personal purposes (other than de minimis personal use such as a stop for lunch).

Commuting. Taxpayers who for business reasons require employees to use business vehicles for commuting are generally not subject to the recordkeeping requirement if the following conditions are satisfied. First, the employer allows no other personal use of the vehicle by employees (other than de minimis personal use). Second, the employer accounts for the commuting use by including an amount in the employee's income for each day the vehicle is used for commuting.

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Sales and service. Taxpayers who spend most of a normal business day using a vehicle, for example, to call on customers or clients, make deliveries or visit job sites, may satisfy the recordkeeping requirement in one of two ways. They may keep records of personal use of a vehicle. In the alternative, they may keep no records and either (i) treat 70 percent of the use of the vehicle as business use and 30 percent as personal use if such vehicle is an automobile or otherwise designed primarily for personal use, or (ii) treat 80 percent of the use of vehicle as business use and 20 percent as personal use if such vehicle is a truck or other vehicle designed primarily for commercial use. However, these rules are not available to taxpayers who customarily spend most of their normal business day in an office or similar setting. A farmer may be able to use this rule for an automobile used to make several stops during a normal business day directly in connection with the business of farming.

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