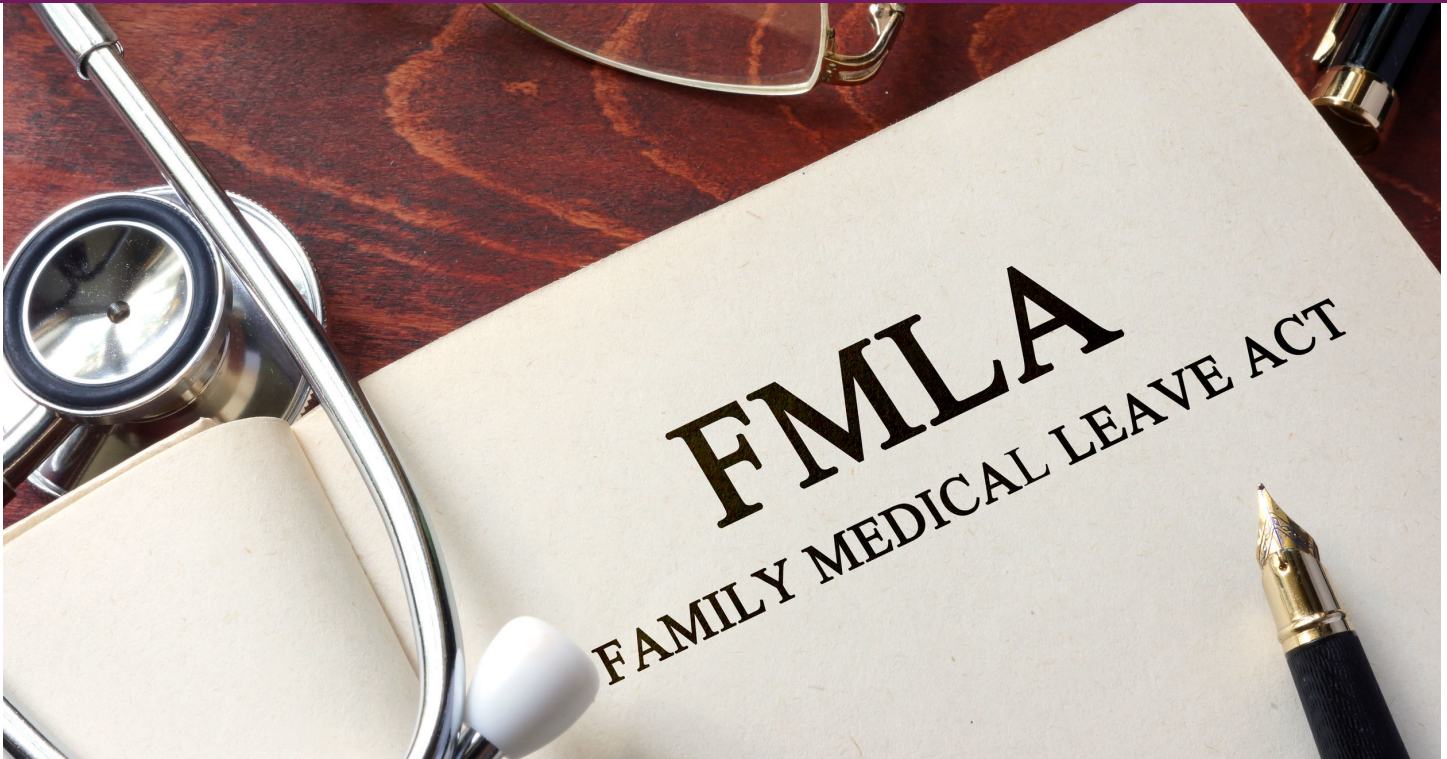


County Officials E-News

Promoting better county government through direct assistance to county officials and their associations



Department of Labor Issues New FMLA Opinion – Designation of FMLA Leave

The U. S. Department of Labor's (DOL) Wage and Hour Division (WHD) issued a new opinion dated March 14, 2019, answering a question about when an employer is required to designate paid leave as FMLA leave.

The opinion stated that some employers voluntarily permit employees to exhaust some or all of their paid leave prior to designating the leave as FMLA-qualifying, even where the leave is clearly FMLA-qualifying. ***This practice is prohibited,*** according to DOL.

The opinion states that the employer is responsible in all circumstances for designating

leave as FMLA-qualifying and giving notice of the designation to the employee. The employer is prohibited from delaying the designation of FMLA-qualifying leave as FMLA leave.

Once an eligible employee has communicated a need to take leave for an FMLA-qualifying reason, neither the employee nor the employer may decline FMLA protection for that leave. *WHD Opinion Letter FMLA2019-1-A.*

To view the full opinion, [click here.](#) ■

Valuing Employee Personal Use of County Vehicles

The Internal Revenue Service (IRS) provides for the following methods of valuing an employee's personal use of company vehicles. To assist employers in this valuation process, the [IRS has released the 2019 inflation-adjusted figures to use in the calculations](#).

These figures are presented below by valuation method. Elected or appointed county officials should use the Annual Lease Valuation Method to determine the value of their personal use of a county vehicle. Employees should use either the Cents-Per-Mile Method or the Commuting Method (but not both) for valuation determinations.

Annual Lease Valuation Method

Elected officials must use the Annual Lease Valuation Method for determining the value of personal use of a county-provided vehicle. Under this method, the personal use value is determined by using its annual lease value. To make this determination, follow the guidelines below:

1. Determine the fair market value (FMV) of the vehicle on the first date it is available to the elected official for personal use.
2. Using [Table 3-1 of IRS Publication 15-B \(page 25\)](#), locate the range in which the FMV falls, then read across to the second column to find the annual lease value.
3. Multiply the annual lease value by the percentage of personal miles out of total miles driven by the elected official.

An example of the annual lease valuation method is as follows: An official's county vehicle has a FMV of \$22,500 and drives this vehicle approximately 10% of the total miles for personal use. The annual lease value of this vehicle would be \$6,100. The calculation to value the vehicle under this method would be: $.10 \times \$6,100 = \610

For vehicles with a FMV over \$59,999, use the following formula: $(.25 \times \text{FMV}) + \500 .

Cents-Per-Mile Method

If the cents-per-mile method is elected, the value of the personal use is equal to the business standard mileage rate multiplied by the total number of miles the vehicle is driven for nonbusiness purposes. The standard mileage rate for 2019 is 58 cents (see [IRS Notice 2019-2](#)).

Note that the cents-per-mile valuation method is only available for vehicles that do not exceed certain maximum limits. [IRS Notice 2019-8, 2019-3 I.R.B. 354](#) sets the new maximum value for vehicles first made available to employees in calendar year at \$50,000. This new maximum will be used as the base for inflation adjustments for 2019 and later years.

If the vehicle's fair market value exceeds a certain amount, this method cannot be used. The maximum dollar amount is adjusted annually by the IRS. Further, the cents-per-mile method cannot be used unless the vehicle meets one of the following requirements:

- The county reasonably expects the vehicle to be regularly used for business throughout the year or for a shorter period during which it owns or leases the vehicle; or
- The vehicle is actually driven less than 10,000 miles during the year and use of the vehicle is primarily by county employees. Note: the 10,000-mile requirement is reduced if the county owns or leases the vehicle for only part of the year.)

Commuting Method

Because the cost of commuting to and from work is not an eligible deductible business expense, county employees' use of a county vehicle for commuting is considered by the IRS to be personal use. The commuting valuation method may be used if the following requirements are met:

- The county provides the vehicle for bona fide business use.
- The county has a written policy disallowing personal use of the vehicle other than for commuting or *de minimis* personal use.
- The employee does not use the vehicle for any personal use other than commuting or *de minimis* personal use.
- The employee is not an officer and does not receive compensation of at least \$105,000

or any other employee receiving compensation is at least \$215,000.

Under the commuting method, the use of the vehicle is valued at \$1.50 per one-way commute, regardless of distance. If two or more employees commute in one vehicle, the value is \$1.50 per one-way commute per employee.

For more information on these valuation methods including exemptions, please click [here](#). ■

Department of Labor Issues Proposed Overtime Rule

On March 7, 2019, the U. S. Department of Labor's (DOL) Wage and Hour Division (WHD) announced a proposed rule that, if it becomes the final rule, would raise the minimum salary amount for the "white collar" (executive, administrative, and professional) exemptions to \$35,308 (\$679 per week).

Under current law, employees with a salary below \$455 per week (\$23,660 annually) must be paid overtime if they work more than 40 hours per week. Workers making at least this salary level may be eligible for overtime based on their job duties. This salary level was set in 2004.

This proposal would raise the salary level to \$679 per week (\$35,308 per year). Above this salary level, eligibility for overtime varies based on job duties.

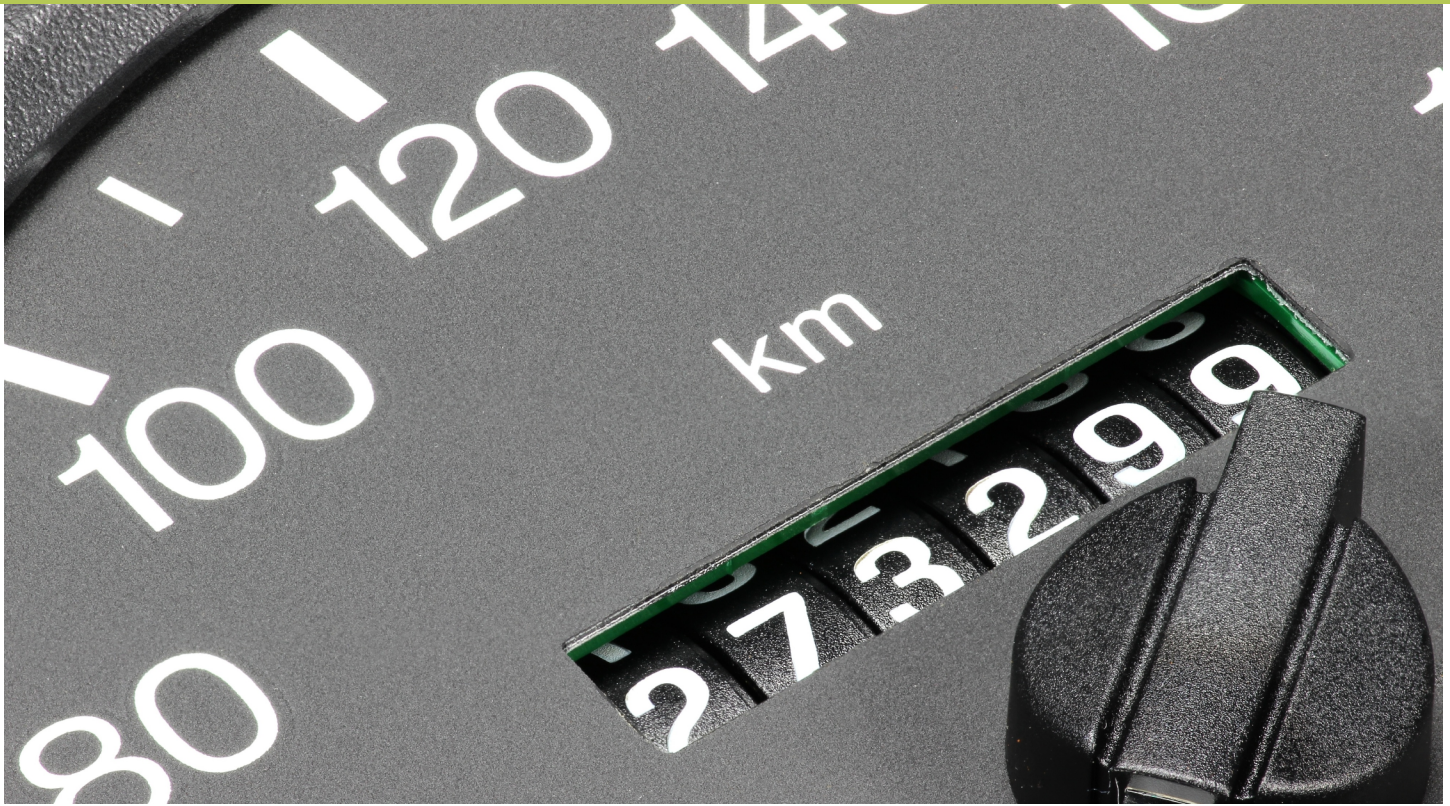
The [Notice of Proposed Rulemaking](#) includes:

- Increasing the minimum salary required for an employee to qualify for exemption from the currently-enforced level of \$455 to \$679 per week (equivalent to \$35,308 per year).
- Increasing the total annual compensation requirement for "highly compensated employees" (HCE) from the currently-enforced level of \$100,000 to \$147,414 per year.
- A commitment to periodic review to update the

salary threshold. An update would continue to require notice-and-comment rulemaking.

- Allowing employers to use nondiscretionary bonuses and incentive payments (including commissions) that are paid annually or more frequently to satisfy up to 10 percent of the standard salary level.
- No changes to the overtime protections for:
 - Police Officers
 - Fire Fighters
 - Paramedics
 - Nurses
 - Laborers including: non-management production-line employees
 - Non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremens, and construction workers
- No changes to the job duties test.
- No automatic adjustments to the salary threshold.

The public will have 60 days to comment on the proposed regulation, beginning on the date of its publication in the Federal Register. The Department will consider all timely comments in developing a final rule. ■



Federal Standard Tax-Free Mileage Rate Increases for 2019

The Internal Revenue Service (IRS) has recently announced an increase in the Federal standard tax-free mileage rate for 2019. It will be 58 cents per mile, up 3.5 cents from the 54.5 cents per mile rate in 2018. Refer to [IRS Notice 2019-2, 2019-3 I.R.B.](#) for more information.

As reference, expenses are deemed “substantiated” if the reimbursement does not exceed the 58 cents per mile rate, regardless of actual expenses. Reimbursements are tax-free as long as the employee provides details of their trip including time, place, business purpose, and the number of miles traveled. Employees are not

required to provide record of actual expenses or receipts.

The Federal standard tax-free mileage rate may be used to obtain a value of an employee’s personal use of a company-owned vehicle for employment tax purposes if certain conditions described in the US Code of Federal Regulations §1.61-21(e)(1) are met. Further, the Federal standard tax-free mileage rate may also be used to obtain a reimbursement value when employees use a “vehicle for hire” such as a rental car for business purposes. ■

Calendar



Visit k@te to register: <http://kate.tennessee.edu/ctas>. Registration for classes opens one month prior to the first class in a series. All classes are 8:30am-12:30pm local time unless otherwise specified.

March 2019

March 21	Storytelling & Engagement	Jackson - Madison County Health Department
March 22	Storytelling & Engagement	Murfreesboro - Doubletree Hotel
March 26	Energy Conservation	Knoxville - UT Conference Center
March 27	Storytelling & Engagement	Knoxville - UT Conference Center

April 2019

April 3	Internal Controls	Johnson City - Carnegie Hotel
April 3	Emergency Management Fundamentals	Jackson - Jackson Energy Authority
April 4	Internal Controls	Knoxville - UT Conference Center
April 4	Internal Controls	Cookeville - Leslie Town Centre
April 11	Internal Controls	Jackson - Madison Health Department
April 12	Internal Controls	Murfreesboro - Doubletree Hotel
April 23	Emergency Management Fundamentals	Franklin - Williamson County Public Safety Center
April 26	Internal Controls	Kimball - Chattanooga State Community College
April 30	Emergency Management Fundamentals	Knoxville - UT Conference Center



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Please go to <http://www.ctas.tennessee.edu>

1. Click on Directory.
2. Go to your county then click your title.
3. Click Request Update.
4. Update info and click Submit.

We greatly appreciate your assistance in making sure your information is correct in the Directory! ■