

BEYOND INCOME TAX RETURNS

Your annual reminder about OTHER filings the IRS, Oregon and Washington want from you

EXECUTIVE SUMMARY

As we, at Perkins & Co, spend the last days of 2014 preparing for the upcoming filing season, we want to make sure you know about information reporting requirements with which you may need to comply in addition to filing tax returns. We have summarized what's new below. ***If you would like us to help you comply with any of the filings mentioned in this document, we would be happy to help! Please get in touch with us by January 15, 2015 so we can help you gather all information needed to file in a timely fashion.***

FEDERAL ALERTS

- The business mileage rate increases from 56 cents per mile to 57.5 cents per mile as of January 1, 2015.
- New Affordable Care Act information reporting provisions take effect in 2016 for health insurance offered in 2015. If you have about 50 employees or more, you need to read page 6.
- Congress recently extended many tax provisions that expired 12/31/2013 so you can use them on 2014 tax returns. Visit our blog (tinyurl.com/PCoBlog) for full details.

WHAT THE VAT?

- If you sell a digital product delivered via the Internet and you have European customers, read up on the 2015 changes to the European Union's (EU) Value-Added Tax (VAT) rules on page 9.

OREGON ALERT

- Starting with 2014 forms, copies of some 1099s and all W-2s must be electronically filed with Oregon, even if you're not required to electronically file them with federal authorities. Oregon will begin assessing failure to file penalties for forms due in 2015. See page 10.

WASHINGTON ALERT

- Washington doesn't have an income tax, but you may still owe their Department of Revenue money if you provide services or sell goods to Washington customers. Check out our brief guide to Washington's economic nexus rules on page 11.

Are you in Washington? We are too! Perkins opened an office in Vancouver, WA. If you'd like to meet us there instead of at our Portland office, let your accountant know!

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FEDERAL GENERAL INFORMATION REPORTING REQUIREMENTS AND DEADLINES

The taxing authorities of the world are keen to know when and how businesses receive payments. The US Internal Revenue Service (IRS) uses a variety of information return forms, including the W series and 1099 series, to capture this information and use it to double check that no one is under-reporting income. Substantial penalties for late and/or incorrect filings have been enacted and are being enforced.

The IRS also requires you to disclose whether you have filed the required Forms 1099 on your business tax return and/or your business schedules on your personal tax return. That means if you have a Schedule C, E or F on your 1040 tax return, we are required to ask you if you have filed these forms. See penalties on page 5.

To avoid late filing penalties, 2014 information returns must be filed with the IRS and/or the Social Security Administration (SSA) by March 2, 2015 if paper filing or by March 31, 2015 if filing electronically. In some cases, it is possible to obtain an extension of time to file information returns with the IRS and/or SSA. **Regardless of how you file your government copies, information returns must be furnished to employees and other taxpayers by February 2, 2015.**

If you are engaged in a trade or business and you make certain payments to persons other than corporations, you may be required to file an information return. This is true for all types of payors: individuals, partnerships, associations, corporations, or any other entity engaged in a trade or business. The following is a **partial** list of payments that require an information return. Minimum payment amounts requiring a return are listed where applicable. This list is intended only as a general reminder. You can obtain detailed instructions from the IRS or from us.

FORM 1099

- Interest (\$10)
- Dividends (\$10)
- Liquidation distributions (\$600)
- Payments to independent contractors (\$600)
- Director's fees (\$600)
- Prizes or awards (\$600)
- Exchanges of services or bartering transactions (all amounts)
- Commissions (\$600)
- Pension or annuity distributions (\$10)

FORM W-2

- Wages, tips, bonuses
- Vacation allowances
- Severance pay
- Non-qualified moving expenses
- Other compensation
- Personal use value of auto
- (See "Employer-Provided Vehicles" below)
- Cost of certain group term life insurance policies
- Fringe benefits to a more than 2% shareholder of an S-Corporation – see page 5

FORM 1099, CONTINUED

- Rents
 - Professional fees to unincorporated:
 - Doctors (\$600)
 - Accountants (\$600)
 - Other professionals (\$600)
 - Professional fees to attorneys (\$600)
- Perkins & Co is incorporated – you don't need to send us a 1099*

Since 2011, the IRS has required you to exclude any payments you made by credit card, debit card, gift card or PayPal from Form 1099-MISC. Any amounts you paid using these specified methods of payment must be reported to the IRS, not by you, but by the issuing card company using Form 1099-K. You do not need to report these amounts on Form 1099-MISC. For more information about these rules, please visit: www.irs.gov/form1099k.

When completing information returns, taxpayer identification numbers (TIN) and names must be carefully listed. The IRS automatically matches identification numbers and names. If the name does not exactly match the record for the TIN, the IRS will issue you a matching notice. For payments made to sole proprietors, show the individual's name on the first line and the business name on the second line. For payments made to single-member LLCs that are disregarded entities, enter the LLC owner's name on the first line and the LLC's on the second line, and use the LLC owner's TIN if the LLC does not have its own TIN. Failure to include correct name and number can subject the payer to penalties (discussed in more detail on page 5).

In an effort to combat the rising problem of identity theft, the IRS recommends that you mask the recipient's taxpayer identification number on all information returns (i.e. Forms 1099 and W-2) that are sent to the payee. In other words, only the last four digits of the recipient's TIN should be visible. However, the full TIN should still appear on the government copy of the forms.

Returns must be filed electronically if at least 250 returns are required to be filed – other filers may file electronically if they wish. The 250 threshold is applied separately to each type of return form. If you have not previously filed 1099s electronically, you will need to submit an e-filing application to the IRS at least **45** days prior to the e-filing deadline. (For 2014 returns, that means you need to get this done before February 13, 2015.) You can do this online at <http://fire.irs.gov>. The first day to e-file information returns regarding 2014 transactions is January 20, 2015. You can register to file W-2s electronically online at the Social Security Administration's website: www.ssa.gov/bsa.

INFORMATION RETURN PENALTIES

Penalties of up to \$100 per return will be imposed for information returns as previously described under the following scenarios:

- 1) Failure to file an information return by the due date (including failure to file electronically if required) and/or
- 2) Failure to include all the information required to be shown on a return, or the inclusion of incorrect information on a return.

The due dates are dependent on how you file and to whom you are reporting. For most forms, the due date for these returns to be sent to recipients is February 2, 2015. The due date for submitting paper returns to the IRS and SSA is March 2, 2015. The due date for submitting electronic forms is March 31, 2015. The IRS may reduce the penalty if the failure is corrected shortly after the due date. The \$100 per-return penalty will be reduced to \$30 if corrected by March 31 or to \$60 if corrected by August 1 of the same year. The maximum penalties imposed on any one filer are divided into categories depending on when or if a corrected return was filed, and the size of the business (see table below). You are a “small business” for these purposes if your average annual gross receipts for the prior three years is five million dollars or less. While the penalties may seem small on a per return basis, they add up quickly and are generally very difficult to waive. These penalties are cumulative, subject to the maximum penalty in each category as shown on the following table:

Maximum Penalty by Category	General Penalty Maximum	Small Business Penalty Maximum
Returns corrected by March 31	\$250,000	\$75,000
Returns corrected by August 1	\$500,000	\$200,000
Returns not corrected by August 1	\$1,500,000	\$500,000

It is your responsibility to prepare or engage someone to prepare all required information returns. The penalties, as you can see, are onerous. Take care to carefully analyze all payments made during the year so that you can prepare all the proper forms.

A FEW NOTES ON W-2s

- A. **S Corporation owner-employees** who hold more than 2% or more of the company’s stock aren’t eligible for tax-privileged status on most fringe benefits. Other employees get their health insurance, anniversary gifts and other §125 plan benefits pre-tax, but those items (among others) need to be treated as ordinary wages for >2% shareholders.

With the exception of medical benefits, these taxable-only-to-shareholders fringe benefits are also subject to Social Security and Medicare taxes.

- B. **Employer-provided vehicles** that are available for employee personal use are a taxable fringe benefit and treated as ordinary wages and subject to Social Security and Medicare taxes. While the IRS provides three methods to value the benefit of an employer-provided vehicle, the most pragmatic option is the lease valuation method. Contact us if you want to know more about the cents-per-mile or commuting valuation methods. The lease valuation method can be applied either on a calendar year basis, or on a November 1 – October 31 basis. Please use the worksheet in **Appendix A** to calculate the value of the vehicle to the employee. Note that employers are responsible for notifying each employee using a company-provided vehicle as to the substantiation requirements, policies, valuation and withholding methods adopted with regard to benefit of the employer-provided vehicle. The written notice should be provided by January 31 of the valuation year or 30 days after the employer supplies the car to the employee. The notice may be mailed to affected employees, provided in their paychecks or posted where they will most likely read it. The employer need not give second or repeat notices if the valuation method has not changed and notice has previously been provided.
- C. **Value of employer-sponsored health coverage** (including both employee and employer contributions) should be reported in box 12 under code DD. As with many Affordable Care Act provisions, the IRS is providing transition relief on this requirement, and it is only mandatory for 2014 W-2s if you filed 250 or more Forms W-2 for 2013. If this requirement applies to you, please see the IRS documentation at <http://www.irs.gov/Affordable-Care-Act>.
- D. **Additional Medicare tax withholding** is still required at 0.9% on W-2 box 5 wages over \$200,000. Employers are required to begin withholding this tax in the pay period in which the employee's wages subject to Medicare tax exceed the \$200,000 threshold.

NEW HEALTH INSURANCE INFORMATION REPORTING

As you may be aware, the penalty for individuals without qualified health insurance coverage kicks in as part of 2014 individual income tax filings (those due April 15, 2015). The penalty increases for 2015 (to be collected with returns due to be filed in 2016). In order to ensure it is collecting penalties from all the right people, the IRS has created a new information reporting system for health insurers and applicable large employers (ALEs). This system was mandated by the Patient Protection and Affordable Care Act (ACA) of 2010, and takes effect at the same time as the higher penalties. You'll first see these forms in 2016, though you can see drafts of the forms and instructions via the link below. You're an ALE if you have about 50 full-time employees; however, the rules for calculating employee counts are complex. If there's a month

when you're paying 50 or more people during 2015, these reporting requirements may apply to you. Please visit the link below or contact us if you need assistance in determining if you are an ALE. If you're a smaller employer: hurrah! You have no additional information reporting requirements under the ACA. ALEs will report details of the health insurance offered and health insurance received to their employees via forms 1094-C and 1095-C. Health insurance vendors will report to anyone with a policy not sponsored by an ALE via forms 1094-B and 1095-B. The 1094 and 1095 series of forms will be due along a timeline similar to W-2s. For more information on ALEs and the ACA, please visit the IRS website at <http://tinyurl.com/ACAforALEs>.

RECEIVING LOTS OF CASH? THERE'S A FORM FOR THAT.

Form 8300 must be filed within 15 days after a business receives more than \$10,000 in "cash" in a single transaction or a series of related transactions. "Cash" includes money orders, traveler's checks, cashier's checks, bitcoin and foreign currency as well as US coin and paper currency. Your depository institution will likely have this form on hand and assist you in filling it out when you bring the money to them.

REPORT OF FOREIGN BANK AND FINANCIAL ACCOUNTS (FBAR) – FINCEN REPORT 114

If you have access to a foreign financial account or accounts (this includes bank accounts, brokerage accounts, retirement accounts, prepaid debit/credit cards purchased outside the US, and cash value life insurance) and the aggregate value of their highest balances was \$10,000 USD or more at any point during a calendar year, you must file an FBAR for that account for that year. "Access" to an account means you owned it, owned part of it, were a trustee or custodian for it, or had signature authority over the account (even if multiple signatures were required to remove funds). It doesn't matter whether the account earned any income: the filing requirements are the same either way.

The Report 114 (which replaces the form formerly known as TD F90-22.1) is an e-file ONLY form. It is due June 30 following the year in which the aggregate value of the foreign accounts was \$10,000 USD or more. The Report 114 (unlike the TDF 90-22.1) is not administered directly by the IRS. The IRS (whom we can only infer were feeling lonely with the imminent handoff of the FBAR to FinCEN) thus instituted Form 8938, Statement of Specified Foreign Assets. Compared to the Report 114, the Form 8938 has much higher filing thresholds and modestly less onerous failure-to-file penalties.

Speaking of penalties! There is a minimum penalty of \$10,000 per account per year you were required to file a Report 114/FBAR. If the IRS determines you knew you had a filing requirement and disregarded that filing requirement (a "willful violation"), they can assess a maximum penalty

of the greater of \$100,000 per account or 50% of the value of the account at the due date of the unfiled FBAR and may pursue criminal charges. Criminal conviction can result in up to five years in prison and an additional fine of \$250,000 per violation. If you didn't report income related to your foreign financial account, you may be subject to additional penalties on the unpaid income tax of 20-40% of the tax due, and an additional penalty of 75% of the unpaid income tax if the failure to report the income was willful.

We can assist you in filing your FBARs; however, if you believe you may have failed to file a required FBAR for a prior year, we recommend that you contact an attorney with experience in this area as soon as possible. Starting in January 2012, the IRS began an open-ended offshore voluntary disclosure program (ODVP). Due to the open-ended nature of the program, the terms are subject to change. Currently, the program does not abate penalties as much as the 2009 and 2011 voluntary disclosure programs; however, it does offer relief from potential criminal charges and modestly reduces monetary penalties.

The IRS is now also offering alternatives to the OVDP noted above for those who meet certain criteria, such as little income tax due to the US on income from these unreported accounts. The IRS would classify those who qualify as "low risk", and allows them a path to compliance with fewer years to report than under the OVDP. Also, they can come forward and not be assessed any penalties as long as they can demonstrate reasonable cause for not having previously disclosed. These programs are available to both US resident taxpayers and US taxpayers who live abroad, and are called "Streamlined OVDP".

For more information about FBARs, please contact us (see our contact info on page 12) or visit <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Report-of-Foreign-Bank-and-Financial-Accounts-FBAR>.

MANDATORY WITHHOLDING ON PAYMENTS TO NON-US PERSONS AND NON-US ENTITIES

In conjunction with the increased media attention on US taxpayers with foreign accounts resulting from the Foreign Account Tax Compliance Act (FATCA), we'd like to remind you that you may be required to withhold tax on most kinds of payments to non-US persons and non-US entities. Please be especially attentive to these requirements when working with remote contractors. In general, you are required to obtain one of the family of W-8 forms from foreign persons. On these forms, they'll either attest to why they're exempt from withholding (usually because they promise to file a US tax return), they'll claim a lower treaty withholding rate and tell you what the rate is, or they'll tell you to withhold as normal. Unless the payee tells you otherwise via a W-8 type form, you must withhold at 30% and remit the withholding to the IRS on a timeline similar to payroll tax withholding. The year-end reporting form for foreign withholding

is Form 1042-S for most types of payments. For more details on who is subject to this requirement and which version of the W-8 you need from each payee, review IRS Publication 515 (<http://www.irs.gov/pub/irs-pdf/p515.pdf>). Some foreign entities and persons are reluctant to furnish information about their US tax status; in order to avoid difficulties, we recommend you obtain the relevant Form W-8 prior to the payee commencing work on your behalf.

WHY YOU SHOULD CARE ABOUT THE EUROPEAN UNION (EU) VALUE-ADDED TAX (VAT)

What is a VAT?

A value-added tax differs from a sales tax in that it is charged on every transaction in a good's or service's supply chain, rather than only on the final sale to the end consumer of the good or service. Each business in the supply chain charges VAT on the entire purchase price of their good or service, but before remitting the VAT to the applicable government, they take a credit for the amount of VAT they paid on supplies that went into the good or service. Hence, the net tax the business pays is on the "value added". Let's take a look at an example:

Able Co, Bettering Up Ltd and Cargo GMBH are based in a country with a VAT rate of 10%. Able salvages recyclable materials from other companies' waste streams. It turns plastics into a fabric-like extruded plastic, and sells €100 worth to Bettering Up Ltd for an end price of €110 including VAT. Bettering Up Ltd pays €10 of VAT to Able Co. Since Able Co didn't pay any VAT on its supplies, the entire VAT amount is remittable to the government. Bettering Up Ltd turns the bolts of plastic fabric into a batch of handbags it sells to Cargo GMBH for a base price of €200, or €220 including VAT. Cargo pays the €20 VAT to Bettering Up. Since Bettering Up paid €10 of VAT on supplies from Able Co, it reports receipt €20 VAT, takes a credit of €10 on its VAT return, and remits the net VAT of €10 to the government. Hence, Bettering Up is only liable for the tax on the €100 of value it added to its product.

Thanks for not using widgets in that example. But still, why should I care?

In general, VAT and similar taxes (Canada calls theirs GST) are assessed based on the location of the producer. In theory, this means that each member state in the EU sets its own VAT rate and it functionally receives that rate on all production within its borders. In order to avoid placing ridiculous burdens on tiny businesses, the sales thresholds for VAT are generally high five to low six digits; \$100,000 in US dollars is a reasonable rule of thumb. Enter the modern internet economy and multinationals with fleets of cunning tax specialists. (Yes, readers, another tax change brought to you to combat the wiles of Amazon.com.) Large companies that specialize in digital goods have been basing themselves in lower VAT countries but selling mostly to customers in countries with higher VAT rates. The EU states with higher VAT rates grew quite

cranky with these maneuvers, and as a result, the EU has some VAT changes going into effect January 1, 2015. **These changes only apply to sales of ‘electronically-supplied services’ to end consumers**, but they are sweeping:

1. They remove the sales thresholds for VAT e-services
2. They apply VAT based on the location of the **customer** rather than the producer

If you’re a business outside the EU and you sell software as a service, e-books, pre-recorded online courses or other digital things that are

- delivered over Internet or an electronic network
- supplied to the end customer in a manner that is essentially automated or involves only minimal human intervention and
- impossible to ensure in the absence of information technology

YOU may be liable for VAT on sales to EU customers, even if you only have one small customer in a given EU country. The EU member states have all implemented VAT MOSS (mini one-stop shops) to allow online filings under a single VAT ID starting in 2015, but this still means filing a return for each country where you have customers. If you’re in this situation, please get in touch with an expert (ours is Masa Yamaguchi – see page 12) as soon as possible; there are some relatively simple planning measures that can reduce the burden of these changes.

From a broader perspective, these changes are part of a wide global trend toward taxing authorities looking to tax not just their local citizens, but all of their citizens’ transactions. Many US states have taken measures to move toward this taxation model. For an example, see “Washington’s Economic Nexus Rules” on page 11.

OREGON ELECTRONIC FILING REQUIREMENTS

Copies of all W-2s must be electronically filed with Oregon via a third party such as ADP or Intuit, or directly via the state’s iWire electronic filing platform. If you file 10 or more of them, you’re also required to e-file copies of 1099-MISCs, 1099-Gs, 1099-Rs, and W-2Gs. Electronic filing is available January 1 and filings are due March 31, 2015. Happily, Oregon’s iWire system is free, doesn’t require advance registration, and allows you to hand key data if you so choose. Sadly, the system is otherwise primitive, and doesn’t save your progress or have a way to remember who you are. If you have more than a handful of forms to e-file, we recommend checking with your accounting software vendor to see if they offer e-filing of these forms with Oregon.

OREGON NEW HIRE REPORTING REQUIREMENT

All employers are required to report all new hires (or rehires who have been gone more than 45 days) to the Oregon Department of Justice. The report can be made by remitting an Oregon New Hire Reporting Form no later than 20 days after the date of hire or rehire. You can obtain additional information about this reporting requirement, as well as the required reporting form, by visiting the Oregon Department of Justice, Child Support Program website:

www.oregonchildsupport.gov/employers/reporting.shtml. This link also provides information on optional electronic reporting to meet this requirement. Note that this report is not considered a normal payroll reporting function by some payroll services – if you outsource payroll, make sure this report is being filed on your behalf.

A BRIEF GUIDE TO WASHINGTON’S ECONOMIC NEXUS RULES

In 2009, facing a recession-related budget shortfall, Washington joined a growing number of states in changing the laws used to determine what is considered a “Washington” transaction. Washington voters declined to enact an extra sales tax on junk food and declined to enact the state’s first income tax, so it had to modify laws already in place. Effective July 1, 2010, businesses providing services are required to consider the proceeds from their services as subject to Washington’s Business & Occupation (B&O) tax if the customers receiving services are in Washington and the service-providing business has:

- more than \$50,000 of property in Washington
- more than \$50,000 of payroll in Washington
- more than \$250,000 of gross income in Washington, or
- at least 25% of their total property, payroll or gross income in Washington

Service businesses based in Washington can apportion sales to customers out of Washington provided they can meet the above criteria in the non-Washington customer’s state AND they actually pay tax to that state. Washington’s current B&O tax rate is 1.5% of subject gross receipts for service businesses. In addition to e-filing a return monthly or quarterly (depending on volume of gross receipts), businesses apportioning some income out of Washington must also file an annual apportionment reconciliation due October 31 of the following year. One bright side: Washington rolled out a new electronic return-amendment feature in late 2013 that is very user-friendly.

PERKINS & CO'S CONTACT INFO

Roy Abramowitz	Shareholder	(503) 221-7500	RAbramowitz@perkinsaccounting.com
Eric Hormel	Shareholder	(503) 221-7585	EHormel@perkinsaccounting.com
Tim Kalberg	Shareholder	(503) 221-7511	TKalberg@perkinsaccounting.com
Chris Loughran	Shareholder	(503) 221-7565	CLoughran@perkinsaccounting.com
Keith Meyers	Shareholder	(503) 221-7579	KMeyers@perkinsaccounting.com
Daniel Monaghan	Shareholder	(503) 221-7509	DMonaghan@perkinsaccounting.com
Kathy Murphy	Shareholder	(503) 221-7515	KMurphy@perkinsaccounting.com
Carol-Ann Simon	Shareholder Expatriate Taxation	(503) 221-7580	CSimon@perkinsaccounting.com
Susan Sterne	Shareholder	(503) 221-7531	SSterne@perkinsaccounting.com
Brigitte Sutherland	Shareholder	(503) 802-8613	BSutherland@perkinsaccounting.com
David Uslan	Shareholder	(503) 221-7597	DUslan@perkinsaccounting.com
Kimberly Woodside	Shareholder	(503) 221-7592	KWoodside@perkinsaccounting.com
Marianne Brams	Tax Senior Manager	(503) 802-8659	MBrams@perkinsaccounting.com
Jo Hardy	Tax Senior Manager	(503) 221-7523	JHardy@perkinsaccounting.com
Trina Headley	Tax Senior Manager	(503) 221-7593	THeadley@perkinsaccounting.com
Masa Yamaguchi	International Tax Manager	(503) 221-7542	MYamaguchi@perkinsaccounting.com
Andrew Meyers	Tax Senior Manager	(503) 802-8621	AMeyers@perkinsaccounting.com
Corinn Parks	Tax Senior Manager	(503) 802-8625	CParks@perkinsaccounting.com
Nick Prelog	Tax Senior Manager	(503) 221-7557	NPrelog@perkinsaccounting.com
Sara Schmitz	Tax Senior Manager	(503) 221-7522	SSchmitz@perkinsaccounting.com

Appendix A: Annual Lease Value Table

Automobile Fair Market Value	Annual Lease Value	Automobile Fair Market Value	Annual Lease Value
\$ 0 – 999	\$600	\$22,000 - 22,999	\$6,100
1,000 – 1,999	850	23,000 – 23,999	6,350
2,000 – 2,999	1,100	24,000 – 24,999	6,600
3,000 – 3,999	1,350	25,900 – 25,999	6,850
4,000 – 4,999	1,600	26,000 – 27,999	7,250
5,000 – 5,999	1,850	23,000 – 29,999	7,750
6,000 – 6,999	2,100	30,000 – 31,999	8,250
7,000 – 7,999	2,350	32,000 – 33,999	8,750
8,000 – 8,999	2,600	34,000 – 35,999	9,250
9,000 – 9,999	2,850	36,000 – 37,999	9,750
10,000 – 10,999	3,100	38,000 – 39,999	10,250
11,000 – 11,999	3,350	40,000 – 41,999	10,750
12,000 – 12,999	3,600	42,000 – 43,999	11,250
13,000 – 13,999	3,850	44,000 – 45,999	11,750
14,000 – 14,999	4,100	46,000 – 47,999	12,250
15,000 – 15,999	4,350	48,000 – 49,999	12,750
16,000 – 16,999	4,600	50,000 – 51,999	13,250
17,000 – 17,999	4,850	52,000 – 53,999	13,750
18,000 – 18,999	5,100	54,000 – 55,999	14,250
19,000 – 19,999	5,350	56,000 – 57,999	14,750
20,000 – 20,999	5,600	58,000 – 59,999	15,250
21,000 – 21,999	5,850		

For vehicles with a fair market value in excess of \$59,999, the Annual Lease value is equal to 25% of the vehicle's fair market value plus \$500.