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Honorable Mayor and Members of the
Board of Aldermen
Town of Oakland
P. O. Box 521
Oakland, TN 38060

Ladies and Gentlemen:

As part of our ongoing process of examining the records of municipalities, we have completed our investigative audit of selected records of the Town of Oakland. This investigative audit focused on the period January 1, 2010, through June 30, 2011. However, when the examination warranted, this scope was expanded. Our review focused primarily on transactions related to a town vehicle provided to the mayor.

- **Personal use of government vehicle violated previous town policy and was not reported as a fringe benefit on official's federal Form W-2**

  Our investigative audit revealed that the mayor of the Town of Oakland violated the town's vehicle use policy and also failed to fully account for this fringe benefit on his 2010 federal Form W-2. The mayor was provided a town-owned 2004 Chevrolet Suburban which he used to commute to and from work, as well as for some other non-municipal related use in 2010. However, the Town of Oakland's policy in place at the time strictly prohibited personal use of town-owned vehicles for anything other than commuting to and from work. In addition, although a portion of this taxable fringe benefit was reported on the mayor's 2010 federal Form W-2, our investigative audit determined that the reported use did not include either the commuting or all the personal use miles of the mayor.

- **New vehicle use policy implications**

We determined that on January 28, 2011, at the mayor's request, the Town of Oakland leased a 2011 Chevrolet Tahoe, with a total value of $45,549, for use by the mayor. The lease terms required an initial payment at signing of $2,300 and the first of 39 monthly payments of $756[1]. We also noted that in May 2011 the mayor and members of the board of aldermen unanimously adopted a revised vehicle use policy which the mayor endorsed as "in the Town's best interest." That new policy authorized the mayor, police chief, fire chief, and other essential personnel to use town vehicles "for any type of personal use within a 100 mile radius of the Town of Oakland."

Personal use of an employer-provided vehicle is considered a taxable fringe benefit. The Town of Oakland's change in vehicle use policy and the lease of a new vehicle for use by the mayor would require the full value of the leased vehicle to be reported as taxable income to the mayor in 2011. Also, according to IRS rules, the fuel provided to the mayor for personal use must also be separately reported as income.

We found that IRS *Publication 15-B* deals with the methods that may be used, depending on the circumstances, in calculating the value of the taxable fringe benefit:

1. Cents-per-mile rule – Under this rule, use of the vehicle is divided into business use and personal use. If certain requirements are met, and accurate records of business usage are maintained, the taxable benefit is the portion of vehicle usage (in terms of miles driven) not related to business. However, if the employer-provided truck or van (including an SUV) is worth more than $16,200 in 2011, use of this rule is prohibited. Due to the value of the vehicle driven by the mayor, this rule would not apply.

2. Commuting rule – Under this rule, the taxable benefit for usage of a company-owned vehicle is $1.50 for each one-way commute to and from the company. However, this rule may only be used if the vehicle is restricted to business usage and commuting to and from work. Also, the company is required to "establish a written policy under which you do not allow the employee to use the vehicle for personal purposes.…" The commuting rule would not apply to the mayor's vehicle because of the town's new vehicle use policy.

[1] The lease had a mileage limitation of 15,000 miles per year, with an additional 16,263 purchased miles. We noted that in the last six months of 2010, documentation showed the town vehicle used by the mayor logged 15,525 miles.

3. Lease value rule – Under this rule, the taxable benefit is determined by using an IRS table assigning an "annual lease value" based on the fair market value of the vehicle. This includes tax, title, and other actual expenses related to the vehicle. The full annual lease value must be reported as income unless the employer requires the employee to account for all business use. We noted that the mayor of Oakland was not required by the Town of Oakland to account for his use of the town's vehicle.

   The fair market value of the vehicle provided to the mayor, including tax, title, and other expenses, was $45,549. Therefore, according to the IRS *Publication 15-B* for 2011, the annual lease value of the vehicle to be declared as income to the mayor for the last seven months of 2011 would be at least $6,854[2]. According to IRS regulations, the mayor could claim any business use of the vehicle as an itemized deduction on his personal income tax return provided he had maintained sufficient records. The cost of fuel provided by the town for the mayor's personal use should also be separately reported as income.

- **Failure to properly mark city vehicle**

  We also noted that neither the 2004 Suburban nor the 2011 Tahoe used by the mayor displayed the town's emblem or other identifying markings to distinguish them as town vehicles. The *Internal Control and Compliance Manual for Tennessee Municipalities*, page 72, requires that all municipal assets be properly identified as such. Clearly marking vehicles as town property reduces the risk that town officials or employees will use them for prohibited purposes.

If you have any further questions concerning this matter, please contact me.

Very truly yours,

Dennis F. Dycus, CPA, CFE, Director
Division of Municipal Audit

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[2] It should be noted that since the mayor was violating the previous policy, the IRS could find the mayor liable for the entire year's use of the vehicle, or $11,750.