

when determining the value of the benefit provided to A. Thus, as in example (1), \$3,000 is includible in A's gross income with respect to the chauffeur.

(6) Fair market value of a flight on an employer-provided piloted aircraft

(i) In general.— If the non-commercial flight special valuation rule of paragraph (g) of this section does not apply, the value of a flight on an employer-provided piloted aircraft is determined under the general valuation principles set forth in this paragraph.

(ii) Value of flight.— If an employee takes a flight on an employer-provided piloted aircraft and that employee's flight is primarily personal (see §1.162-2(b)(2)), the value of the flight is equal to the amount that an individual would have to pay in an arm's-length transaction to charter the same or a comparable piloted aircraft for that period for the same or a comparable flight. A flight taken under these circumstances may not be valued by reference to the cost of commercial airfare for the same or a comparable flight. The cost to charter the aircraft must be allocated among all employees on board the aircraft based on all the facts and circumstances unless one or more of the employees controlled the use of the aircraft. Where one or more employees control the use of the aircraft, the value of the flight shall be allocated solely among such controlling employees, unless a written agreement among all the employees on the flight otherwise allocates the value of such flight. Notwithstanding the allocation required by the preceding sentence, no additional amount shall be included in the income of any employee whose flight is properly valued under the special valuation rule of paragraph (g) of this section. For purposes of this paragraph (b)(6), "control" means the ability of the employee to determine the route, departure time and destination of the flight. The rules provided in paragraph (g)(3) of this section will be used for purposes of this section in defining a flight. Notwithstanding the allocation required by the preceding sentence, no additional amount shall be included in the income of an employee for that portion of any such flight which is excludible from income pursuant to section 132(d) or §1.132-5 as a working condition fringe.

(iii) Examples.— The rules of paragraph (b)(6) of this section may be illustrated by the following examples:

Example (1). An employer makes available to employees A and B a piloted aircraft in New York, New York. A wants to go to Los Angeles, California for personal purposes. B needs to go to Chicago, Illinois for business purposes, and then wants to go to Los Angeles, California for personal purposes. Therefore, the aircraft first flies to Chicago, and B deplanes and then boards the plane again. The aircraft then flies to Los Angeles, California where A and B deplane. The value of the flight to employee A will be no more than the amount that an individual would have to pay in an arm's length transaction to charter the same or a comparable piloted aircraft for the same or comparable flight from New York City to Los Angeles. No amount will be imputed to employee A for the stop at Chicago. As to employee B, the value of the personal flight will be no more than the value of the flight from Chicago to Los Angeles. Pursuant to the rules set forth in §1.132-5(k), the flight from New York to Chicago will not be included in employee B's income since that flight was taken solely for business purposes. The charter cost must be allocated between A and B, since both employees controlled portions of the flight. Assume that the employer allocates according to the relative value of each employee's flight. If the charter value of A's flight from New York City to Los Angeles is \$1,000 and the value of B's flight from Chicago to Los Angeles is \$600 and the value of the actual flight from New York to Chicago to Los Angeles is \$1200, then the amount to be allocated to employee A is \$750 ($\$1000/(\$1000 + \$600) \times \1200) and the amount to be allocated to employee B is \$450 ($\$600/(\$1000 + \$600) \times \1200).

Example (2). Assume the same facts as in example (1), except that employee A also deplanes at Chicago, Illinois, but for personal purposes. The value of the flight to employee A then becomes the value of a flight from New York to Chicago to Los Angeles, i.e., \$1200. Therefore, the amount to be allocated to employee A is \$800 ($\$1200/(\$1200 + \$600) \times \1200) and the amount to be allocated to employee B is \$400 ($\$600/(\$1200 + \$600) \times \1200).