

to Chicago), over the value of the flights that would have been taken had there been no personal flights but only business flights (Chicago to Miami and Miami to Chicago).

**(iii) Primarily personal trip.**— If an employee combines, in one trip, personal and business flights on an employer-provided aircraft and the employee's trip is primarily personal (see §1.162-2(b)(2)), the amount includible in the employee's income is the value of the personal flights that would have been taken had there been no business flights but only personal flights. For example, assume that an employee flies on an employer-provided aircraft from San Francisco, California, to Los Angeles, California, for the employer's business and that from Los Angeles the employee flies on an employer-provided aircraft to Palm Springs, California, primarily for personal reasons and then flies back to San Francisco. Assume further that the primary purpose of the trip is personal. The amount includible in the employee's income is the value of personal flights that would have been taken had there been no business flights but only personal flights (San Francisco to Palm Springs and Palm Springs to San Francisco).

**(iv) Application of section 274(c).**— The value of employer-provided travel outside the United States away from home may not be excluded from the employee's gross income as a working condition fringe, by either the employer or the employee, to the extent not deductible by reason of section 274(c). The valuation rule of this paragraph (g) applies to that portion of the value of any flight not excludable by reason of section 274(c). Such value is includible in income in addition to the amounts determined under paragraphs (g)(4)(ii) and (g)(4)(iii) of this section.

**(v) Flights by individuals who are not personal guests.**— If an individual who is not an employee of the employer providing the aircraft is on a flight, and the individual is not the personal guest of any employee of the employer, the flight by the individual is not taxable to any employee of the employer providing the aircraft. The rule in the preceding sentence applies where the individual is provided the flight by the employer for noncompensatory business reasons of the employer. For example, assume that G, an employee of company Y, accompanies A, an employee of company X, on company X's aircraft for the purpose of inspecting land under consideration for purchase by company X from company Y. The flight by G is not taxable to A. No inference may be drawn from this paragraph (g)(4)(v) concerning the taxation of a flight provided to an individual who is neither an employee of the employer nor a personal guest of any employee of the employer.

**(5) Aircraft valuation formula.**— Under the valuation rule of this paragraph (g), the value of a flight is determined under the base aircraft valuation formula (also known as the Standard Industry Fare Level formula or SIFL) by multiplying the SIFL cents-per-mile rates applicable for the period during which the flight was taken by the appropriate aircraft multiple (as provided in paragraph (g)(7) of this section) and then adding the applicable terminal charge. The SIFL cents-per-mile rates in the formula and the terminal charge are calculated by the Department of Transportation and are revised semi-annually. The base aircraft valuation formula in effect from January 1, 1989 through June 30, 1989, is as follows: a terminal charge of \$26.48 plus (\$.1449 per mile for the first 500 miles, \$.1105 per mile for miles between 501 and 1500, and \$.1062 per mile for miles over 1500). For example, if a flight taken on January 15, 1989, by a non-control employee on an employer-provided aircraft with a maximum certified takeoff weight of 26,000 lbs. is 2,000 miles long, the value of the flight determined under this paragraph (g)(5) is \$100.36  $(.313 \times ((\$1.449 \times 500) + (\$.1105 \times 1,000) + (\$.1062 \times 500))) + \$26.48$ . The aircraft valuation formula applies separately to each flight being valued under this paragraph (g). Therefore, the number of miles an employee has flown on employer-provided aircraft flights prior to the flight being valued does not affect the determination of the value of the flight.

**(6) Discretion to provide new formula.**— The Commissioner may prescribe a different base aircraft valuation formula by regulation, Revenue Ruling or Revenue Procedure in the event that the calculation of the Standard Industry Fare Level is discontinued.

## **(7) Aircraft multiples**

**(i) In general.**— The aircraft multiples are based on the maximum certified takeoff weight of the aircraft. When applying the aircraft valuation formula to a flight, the appropriate aircraft multiple is

multiplied by the product of the applicable SIFL cents-per-mile rates multiplied by the number of miles in the flight and then the terminal charge is added to the product. For purposes of applying the aircraft valuation formula described in paragraph (g)(5) of this section, the aircraft multiples are as follows:

| <i>Maximum Certified<br/>Takeoff Weight<br/>of the Aircraft</i> | <i>Aircraft</i>                                |  |
|---|--|--|
|   | <i>Multiple<br/>for a Control<br/>Employee</i> | <i>Multiple<br/>for a<br/>Non-Control<br/>Employee</i> |
| 6,000 lbs. or less  | 62.5 percent                                   | 15.6 percent   |
| 6,001—10,000 lbs.   | 125 percent                                    | 23.4 percent   |
| 10,001—25,000 lbs.  | 300 percent                                    | 31.3 percent   |
| 25,001 lbs. or more   | 400 percent                                    | 31.3 percent   |

**(ii) Flights treated as provided to a control employee.**— Except as provided in paragraph (g) (12) of this section, any flight provided to an individual whose flight would be taxable to a control employee (as defined in paragraphs (g)(8) and (9) of this section) as the recipient shall be valued as if such flight had been provided to that control employee. For example, assume that the chief executive officer of an employer, his spouse, and his two children fly on an employer-provided aircraft for personal purposes. Assume further that the maximum certified takeoff weight of the aircraft is 12,000 lbs. The amount includible in the employee's income is 4 × ((300 percent × the applicable SIFL cents-per-mile rates provided in paragraph (g)(5) of this section multiplied by the number of miles in the flight) plus the applicable terminal charge).

**(8) Control employee defined—Non-government employer**

**(i) Definition.**— For purposes of this paragraph (g), a control employee of a non-government employer is any employee—

**(A)** Who is a Board- or shareholder-appointed, confirmed, or elected officer of the employer, limited to the lesser of—

- (1)** One percent of all employees (increased to the next highest integer, if not an integer) or
- (2)** Ten employees;

**(B)** Who is among the top one percent most highly-paid employees of the employer (increased to the next highest integer, if not an integer) limited to a maximum of 50;

**(C)** Who owns a five-percent or greater equity, capital, or profits interest in the employer; or

**(D)** Who is a director of the employer.

**(ii) Special rules for control employee definition**

**(A) In general.**— For purposes of this paragraph (g), any employee who is a family member (within the meaning of section 267(c)(4)) of a control employee is also a control employee. For purposes of paragraph (g)(8)(i)(B) of this section, the term "employee" does not include any individual unless such individual is a common-law employee, partner, or one-percent or greater shareholder of the employer. Pursuant to this paragraph (g)(8), an employee may be a control employee under more than one of the requirements listed in paragraphs (g)(8)(i)(A) through (D) of this section. For example, an employee may be both an officer under paragraph (g)(8)