

and, where required, there was withholding under chapter 24, or

(C) Results in a payment of fair market rent.

For purposes of this paragraph (d)(4)(iv)(C), payment to the owner of the automobile in connection with such use is treated as the payment of rent.

(4) *Predominantly used in qualified business use*—(i) *Definition.* Property is predominantly used in a qualified business use for any taxable year if the business use percentage (as defined in paragraph (d)(1) of this section) is greater than 50 percent.

(ii) *Special rule for transfers at death.* Property does not cease to be used predominantly in a qualified business use by reason of a transfer at death.

(iii) *Other dispositions of property.* [Reserved]

(5) *Examples.* The following examples illustrate the principles set forth in this paragraph.

Example 1. E uses a home computer 50 percent of the time to manage her investments. The computer is listed property within the meaning of section 280F(d)(4). E also uses the computer 40 percent of the time in her part-time consumer research business. Because E's business use percentage for the computer does not exceed 50 percent, the computer is not predominantly used in a qualified business use for the taxable year. Her aggregate business/investment use for purposes of determining the percent of the total allowable straight line depreciation that she can claim is 90 percent.

Example 2. Assume that E in *Example 1* uses the computer 30 percent of the time to manage her investments and 60 percent of the time in her consumer research business. E's business use percentage exceeds 50 percent. Her aggregate business/investment use for purposes of determining her allowable investment tax credit and cost recovery deductions is 90 percent.

Example 3. F is the proprietor of a plumbing contracting business. F's brother is employed with F's company. As part of his compensation, F's brother is allowed to use one of the company automobiles for personal use. The use of the company automobiles by F's brother is not a qualified business use because F and F's brother are related parties within the meaning of section 267(b).

Example 4. F, in *Example 3*, allows employees unrelated to him to use company automobiles as part of their compensation. F, however, does not include the value of these automobiles in the employees' gross income and F does not withhold with respect to the

use of these automobiles. The use of the company automobiles by the employees in this case is not business/investment use.

Example 5. X Corporation owns several automobiles which its employees use for business purposes. The employees are also allowed to take the automobiles home at night. However, the fair market value of the use of the automobile for any personal purpose, e.g., commuting to work, is reported by X as income to the employee and is withheld upon by X. The use of the automobile by the employee, even for personal purposes, is a qualified business use the respect to X.

(e) *Method of allocating use of property*—(1) *In general.* For purposes of section 280F, the taxpayer shall allocate the use of any listed property that is used for more than one purpose during the taxable year to the various uses in the manner prescribed in paragraph (e) (2) and (3) of this section.

(2) *Passenger automobiles and other means of transportation.* In the case of a passenger automobile or any other means of transportation, the taxpayer shall allocate the use of the property on the basis of mileage. Thus, the percentage of use in a trade or business for the year shall be determined by dividing the number of miles the vehicle is driven for purposes of that trade or business during the year by the total number of miles the vehicle is driven during the year for any purpose.

(3) *Other listed property.* In the case of other listed property, the taxpayer shall allocate the use of that property on the basis of the most appropriate unit of time the property is actually used (rather than merely being available for use). For example, the percentage of use of a computer in a trade or business for a taxable year is determined by dividing the number of hours the computer is used for business purposes during the year by the total number of hours the computer is used for any purpose during the year.

[T.D. 7986, 49 FR 42713, Oct. 24, 1984, as amended by T.D. 8061, 50 FR 46041, Nov. 6, 1985; T.D. 9069, 68 FR 40130, July 7, 2003]

§ 1.280F-7 Property leased after December 31, 1986.

(a) *Inclusions in income of lessees of passenger automobiles leased after December 31, 1986*—(1) *In general.* If a taxpayer

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leases a passenger automobile after December 31, 1986, the taxpayer must include in gross income an inclusion amount determined under this paragraph (a), for each taxable year during which the taxpayer leases the automobile. This paragraph (a) applies only to passenger automobiles for which the taxpayer's lease term begins after December 31, 1986. See §§1.280F-5T(d) and 1.280F-5T(e) for rules on determining inclusion amounts for passenger automobiles for which the taxpayer's lease term begins before January 1, 1987. See §1.280F-5T(h)(2) for the definition of fair market value.

(2) *Inclusion Amount.* For any passenger automobile leased after December 31, 1986, the inclusion amount for each taxable year during which the automobile is leased is determined as follows:

(i) For the appropriate range of fair market values in the applicable table, select the dollar amount from the column for the taxable year in which the automobile is used under the lease (but for the last taxable year during any lease that does not begin and end in the same taxable year, use the dollar amount for the preceding taxable year).

(ii) Prorate the dollar amount for the number of days of the lease term included in the taxable year.

(iii) Multiply the prorated dollar amount by the business/investment use (as defined in §1.280F-6T(d)(3)(i)) for the taxable year.

(iv) The following table is the applicable table in the case of a passenger automobile leased after December 31, 1986, and before January 1, 1989:

DOLLAR AMOUNTS FOR AUTOMOBILES WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 1987 OR 1988

Fair market value of automobile	Taxable year during lease						
	1st	2nd	3rd	4th	5 and later		
Over	Not over						
\$12,800	\$13,100	\$2	\$5	\$7	\$8	\$9	
13,100	13,400	6	14	20	24	28	
13,400	13,700	10	23	34	41	47	
13,700	14,000	15	32	47	57	65	
14,000	14,300	19	41	61	73	84	
14,300	14,600	23	50	74	89	103	
14,600	14,900	27	59	88	105	122	
14,900	15,200	31	68	101	122	140	
15,200	15,500	35	77	115	138	159	
15,500	15,800	40	87	128	154	178	
15,800	16,100	44	96	142	170	196	
16,100	16,400	48	105	155	186	215	
16,400	16,700	52	114	169	203	234	
16,700	17,000	56	123	182	219	253	
17,000	17,500	62	135	200	240	277	
17,500	18,000	69	150	223	267	309	
18,000	18,500	76	166	246	294	340	
18,500	19,000	83	181	268	321	371	
19,000	19,500	90	196	291	348	402	
19,500	20,000	97	211	313	375	433	
20,000	20,500	104	226	336	402	465	
20,500	21,000	111	242	358	429	496	
21,000	21,500	117	257	381	456	527	
21,500	22,000	124	272	403	483	558	
22,000	23,000	135	295	437	524	605	
23,000	24,000	149	325	482	578	667	
24,000	25,000	163	356	527	632	729	
25,000	26,000	177	386	572	686	792	
26,000	27,000	190	416	617	740	854	
27,000	28,000	204	447	662	794	917	
28,000	29,000	218	477	707	848	979	
29,000	30,000	232	507	752	902	1,041	
30,000	31,000	246	538	797	956	1,104	
31,000	32,000	260	568	842	1,010	1,166	
32,000	33,000	274	599	887	1,064	1,228	
33,000	34,000	288	629	933	1,118	1,291	
34,000	35,000	302	659	978	1,172	1,353	
35,000	36,000	316	690	1,023	1,226	1,415	
36,000	37,000	329	720	1,068	1,280	1,478	

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DOLLAR AMOUNTS FOR AUTOMOBILES WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 1987 OR 1988—Continued

Fair market value of automobile	Taxable year during lease					
	1st	2nd	3rd	4th	5 and later	
37,000	38,000	343	751	1,113	1,334	1,540
38,000	39,000	357	781	1,158	1,388	1,602
39,000	40,000	371	811	1,203	1,442	1,665
40,000	41,000	385	842	1,248	1,496	1,727
41,000	42,000	399	872	1,293	1,550	1,789
42,000	43,000	413	902	1,338	1,604	1,852
43,000	44,000	427	933	1,383	1,658	1,914
44,000	45,000	441	963	1,428	1,712	1,976
45,000	46,000	455	994	1,473	1,766	2,039
46,000	47,000	468	1,024	1,518	1,820	2,101
47,000	48,000	482	1,054	1,563	1,874	2,164
48,000	49,000	496	1,085	1,608	1,928	2,226
49,000	50,000	510	1,115	1,653	1,982	2,288
50,000	51,000	524	1,146	1,698	2,036	2,351
51,000	52,000	538	1,176	1,743	2,090	2,413
52,000	53,000	552	1,206	1,788	2,144	2,475
53,000	54,000	566	1,237	1,834	2,198	2,538
54,000	55,000	580	1,267	1,879	2,252	2,600
55,000	56,000	594	1,297	1,924	2,306	2,662
56,000	57,000	607	1,328	1,969	2,360	2,725
57,000	58,000	621	1,358	2,014	2,414	2,787
58,000	59,000	635	1,389	2,059	2,468	2,849
59,000	60,000	649	1,419	2,104	2,522	2,912
60,000	62,000	670	1,465	2,171	2,603	3,005
62,000	64,000	698	1,525	2,262	2,711	3,130
64,000	66,000	726	1,586	2,352	2,819	3,255
66,000	68,000	753	1,647	2,442	2,927	3,379
68,000	70,000	781	1,708	2,532	3,035	3,504
70,000	72,000	809	1,768	2,622	3,143	3,629
72,000	74,000	837	1,829	2,712	3,251	3,753
74,000	76,000	865	1,890	2,802	3,359	3,878
76,000	78,000	892	1,951	2,892	3,468	4,003
78,000	80,000	920	2,012	2,982	3,576	4,128
80,000	85,000	969	2,118	3,140	3,765	4,346
85,000	90,000	1,038	2,270	3,365	4,035	4,658
90,000	95,000	1,108	2,422	3,590	4,305	4,969
95,000	100,000	1,177	2,574	3,816	4,575	5,281
100,000	110,000	1,282	2,802	4,154	4,980	5,749
110,000	120,000	1,421	3,105	4,604	5,520	6,372
120,000	130,000	1,560	3,409	5,055	6,060	6,996
130,000	140,000	1,699	3,713	5,505	6,600	7,619
140,000	150,000	1,838	4,017	5,956	7,140	8,243
150,000	160,000	1,977	4,321	6,406	7,680	8,866
160,000	170,000	2,116	4,625	6,857	8,221	9,490
170,000	180,000	2,255	4,929	7,307	8,761	10,113
180,000	190,000	2,394	5,232	7,758	9,301	10,737
190,000	200,000	2,533	5,536	8,208	9,841	11,360

(v) The applicable table in the case of a passenger automobile first leased after December 31, 1988, will be contained in a revenue ruling or revenue procedure published in the Internal Revenue Bulletin.

(3) *Example.* The following example illustrates the application of this paragraph (a):

Example. On April 1, 1987, A, a calendar year taxpayer, leases and places in service a passenger automobile with a fair market value of \$31,500. The lease is to be for a period of three years. During taxable years 1987

and 1988, A uses the automobile exclusively in a trade or business. During 1989 and 1990, A's business/investment use is 45 percent. The appropriate dollar amounts from the table in paragraph (a)(2)(iv) of this section are \$260 for 1987 (first taxable year during the lease), \$568 for 1988 (second taxable year during the lease), \$842 for 1989 (third taxable year during the lease), and \$842 for 1990. Since 1990 is the last taxable year during the lease, the dollar amount for the preceding year (the third year) is used, rather than the dollar amount for the fourth year. For taxable years 1987 through 1990, A's inclusion amounts are determined as follows:

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Tax year	Dollar amount	Proration	Business use (per- cent)	Inclusion amount
1987	\$260	275/365	100	\$196
1988	568	366/366	100	568
1989	842	365/365	45	379
1990	842	90/365	45	93

(b) *Inclusions in income of lessees of listed property (other than passenger automobiles) leased after December 31, 1986—(1) In general.* If listed property other than a passenger automobile is not used predominantly in a qualified business use in any taxable year in which such property is leased, the lessee must add an inclusion amount to gross income in the first taxable year in which such property is not so predominantly used (and only in that year). This year is the first taxable year in which the business use percentage (as defined in §1.280F-6T(d)(1)) of the property is 50 percent or less. This inclusion amount is determined under this paragraph (b) for property for which the taxpayer's lease term begins after December 31, 1986 (and under §1.280F-5T(f) for property for which the

taxpayer's lease term begins before January 1, 1987). See also §1.280F-5T(g).

(2) *Inclusion amount.* The inclusion amount for any listed property (other than a passenger automobile) leased after December 31, 1986, is the sum of the amounts determined under subdivisions (i) and (ii) of this subparagraph (2).

(i) The amount determined under this subdivision (i) is the product of the following amounts:

(A) The fair market value (as defined in §1.280F-5T(h)(2)) of the property,

(B) The business/investment use (as defined in §1.280F-6T(d)(3)(i)) for the first taxable year in which the business use percentage (as defined in §1.280F-6T(d)(1)) is 50 percent or less, and

(C) The applicable percentage from the following table:

Type of property	First taxable year during lease in which business use percentage is 50% or less												
	1	2	3	4	5	6	7	8	9	10	11	12 and Later	
Property with a recovery period of less than 7 years under the alternative depreciation system (such as computers, trucks and airplanes)	2.1	-7.2	-19.8	-20.1	-12.4	-12.4	-12.4	-12.4	-12.4	-12.4	-12.4	-12.4	-12.4
Property with a 7- to 10-year recovery period under the alternative depreciation system (such as recreation property)	3.9	-3.8	-17.7	-25.1	-27.8	-27.2	-27.1	-27.6	-23.7	-14.7	-14.7	-14.7	-14.7
Property with a recovery period of more than 10 years under the alternative depreciation system (such as certain property with no class life)	6.6	-1.6	-16.9	-25.6	-29.9	-31.1	-32.8	-35.1	-33.3	-26.7	-19.7	-19.7	-12.2

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(ii) The amount determined under this subdivision (ii) is the product of the following amounts:

(A) The fair market value of the property,

(B) The average of the business/investment use for all taxable years (in

which such property is leased) that precede the first taxable year in which the business use percentage is 50 percent or less, and

(C) The applicable percentage from the following table:

Type of property	First taxable year during lease in which business use percentage is 50% or less											
	1	2	3	4	5	6	7	8	9	10	11	12 and Later
Property with a recovery period of less than 7 years under the alternative depreciation system (Such as computers, trucks and airplanes)	0.0	10.0	22.0	21.2	12.7	12.7	12.7	12.7	12.7	12.7	12.7	12.7
Property with a 7- to 10-year recovery period under the alternative depreciation system (such as recreation property)	0.0	9.3	23.8	31.3	33.8	32.7	31.6	30.5	25.0	15.0	15.0	15.0
Property with a recovery period of more than 10 years under the alternative depreciation system (such as certain property with no class life)	0.0	10.1	26.3	35.4	39.6	40.2	40.8	41.4	37.5	29.2	20.8	12.5

(3) *Example.* The following example illustrates the application of this paragraph (b):

Example. On February 1, 1987, B, a calendar year taxpayer, leases and places in service a computer with a fair market value of \$3,000. The lease is to be for a period of two years. B's qualified business use of the property, which is the only business/investment use, is 80 percent in taxable year 1987, 40 percent in taxable year 1988, and 35 percent in taxable year 1989. B must add an inclusion amount to gross income for taxable year 1988, the first taxable year in which B does not use the computer predominantly for business (*i.e.*, the first taxable year in which B's business use percentage is 50 percent or less). Since 1988 is the second taxable year during the lease, and since the computer has a 5-year recovery period under the General and Alternative Depreciation Systems, the applicable percentage from the table in subdivision (i) of paragraph (b)(2) is -7.2%, and the applicable percentage from the table in subdivision (ii) is 10%. B's inclusion amount is \$154, which is the sum of the amounts determined under subdivisions (i) and (ii) of subparagraph (b)(2) of this paragraph. The amount determined under subdivision (i) is -\$86 [$\$3,000 \times 40\% \times (-7.2\%)$], and the amount determined under subdivision (ii) is \$240 [$\$3,000 \times 80\% \times 10\%$].

[T.D. 8218, 53 FR 29881, Aug. 9, 1988; 53 FR 32821, Aug. 26, 1988, as amended by T.D. 8298, 55 FR 13370, Apr. 12, 1990; Redesignated and amended at T.D. 8473, 58 FR 19060, Apr. 12, 1993]

§ 1.280G-1 Golden parachute payments.

The following questions and answers relate to the treatment of golden parachute payments under section 280G of the Internal Revenue Code of 1986, as added by section 67 of the Tax Reform Act of 1984 (Pub. L. No. 98-369; 98 Stat. 585) and amended by section 1804(j) of the Tax Reform Act of 1986 (Pub. L. No. 99-514; 100 Stat. 2807), section 1018(d)(6)-(8) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. No. 100-647; 102 Stat. 3581), and section 1421 of the Small Business Job Protection Act of 1996 (Pub. L. No. 104-188; 110 Stat. 1755). The following is a table of subjects covered in this section:

Overview

- Effect of section 280G—Q/A-1
- Meaning of "parachute payment"—Q/A-2
- Meaning of "excess parachute payment"—Q/A-3
- Effective date of section 280G—Q/A-4

Exempt Payments

- Exempt payments generally—Q/A-5
- Exempt payments with respect to certain corporations—Q/A-6
- Shareholder approval requirements—Q/A-7
- Exempt payments under a qualified plan—Q/A-8
- Exempt payments of reasonable compensation—Q/A-9
- Payor of Parachute Payments—Q/A-10