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# Fringe Benefits

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Internal Revenue Service



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## Important Note:

- The information published by the IRS is the authoritative guidance that should be followed. If your situation is unique, or if clear guidance is not set forth in the IRS publications, you may either contact your local IRS representative or seek a technical ruling on the matter.
- This is NOT considered published by the IRS!

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## What's New?

- 11047 - exclusion for qualified bicycle commuting
- 11048 – suspension of the exclusion for qualified moving expenses
- 13310 – addition to the definition of tangible personal property for employee achievement award
- Publication 15-B for 2018 summarized these provisions

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 Fringe Benefits

- Fringe benefits include any property, service or cash payment provided to your employees (other than salary)
- All compensation provided to your employees (cash and non cash) is taxable unless specifically excluded by the law
  - Example IRC 106 for Health Insurance

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 What To Do?

- Identify specific benefit provided to employee (s)
- Determine if benefit is excluded by law and
- Determine if benefit is fully taxable, or partially taxable

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 Taxable Fringe Benefits

- Include in Employee's wages on W-2
- Never on 1099-MISC
- Subject to FIT Withholding, Social Security and Medicare (if applicable)
- Enter as a "non-cash taxable benefit" in software system

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 Exclusions

- Medical Premiums IRC 106
- Cafeteria Plans IRC 125
- Education Assistance IRC 127
- Dependent Care IRC 129
- Certain Fringe Benefits IRC 132

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 De Minimis Benefit

- Property or service, the value of which (after taking into account frequency) is so small that accounting for it would be unreasonable
- Must be small and infrequent
- Frequency defined - an event which is not haphazard but regularly reoccurring

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 Accountable Plan

- Business Connection
- Adequate 'accounting' by employee in reasonable time period
- Excess reimbursement returned in a reasonable time period
- If 3 requirements met then not taxable
- If requirements aren't met then it is taxable (Nonaccountable Plan)

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 Gift Certificates

- TAM 200437031
- Employer provided holiday gift coupon redeemable at local stores
  - Intended to be used for ham or turkey
  - Had restrictions on it (i.e. tobacco)
  - Limited dates to redeem it
- Determined to be taxable

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 Awards

- Taxable:
  - Cash prizes including gift certificates
  - Performance awards
  - Non-Cash prizes use Fair Market Value
  - IRC 74
- Nontaxable: if rules are followed
  - Employee Achievement awards
    - Length of service awards
    - Safety award
  - Treasury Regulations 1.274-8

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 Bonuses

- Taxable to the employee & included in their wages/W-2
- Never on Form 1099
- Includes: All cash & check bonuses, Christmas bonuses & gift certificates
- IRC 61
- Treasury Regulation 1.61-2 & 1.132-6(c)

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## Day Meals

- If the employer reimburses or pays for meals on a **day trip** then:
  - Include the cost of meal reimbursed to the employee in their payroll as a fringe benefit
  - Subject to FIT Withholding, Medicare and SS if have SS wages
  - Revenue Ruling 75-432 & 75-170

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## Day Meals continued

- If union contract says to pay for meals then reimburse but include in wages
- If have policy to pay for meals if traveling out of county it is still taxable and included in wages
  - Must include in payroll the amount of lunch as a noncash item

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## Meals at Conferences

- “Associated With” Meals - Tax-Free not included in wages if:
  - Meals at conventions
  - Meals at conferences
  - Does not include going to lunch with co-worker (this would be personal & taxable = include in wages)

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 **Automobile Expenses**

- Personal vehicle used for business
- 2019 – 58 cents per mile
- At this rate or less: Non-taxable
  - Excess over rate: Taxable fringe benefit included in wages
- Monthly allowance for driving your own car for business is taxable if no accountability
  - verify mileage – mileage log, calendar

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 **Employer Provides Vehicle**

- What is considered personal use?
  - Commuting, spouse or weekend use
- Substantiation Requirements
  - Business & Personal mileage
  - Documentation = personal use is taxable
  - No documentation = all mileage is taxable
  - Exception for some positions/vehicles

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 **Valuation of Personal Use**

- Include in wages as a fringe benefit
- 3 Automobile Valuation Rules for providing a vehicle to employee
  - Auto Lease Valuation Rule
    - Applies to all auto - doesn't have to be leased
  - Vehicle Cents-Per-Mile Rule
  - Commuting Rule

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 Lease Valuation Rule

1. Determine FMV of vehicle
2. Use table in Publication 15-B
3. Determine % of personal use
4. Multiple Annual Lease Value by % of personal use
5. If fuel is provided then add 5.5 cents per mile

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 Cents-Per-Mile Rule

- Vehicle “regularly used” in business **or**
- Vehicle driven 10,000 miles a year and FMV in 2019 limited to \$15,900
  
- Regularly used means
  - 50% or more of mileage is for business **or**
  - Vehicle is used to transport at least 3 employees to work
- 58 cents in 2019

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 Commuting Rule

- \$1.50 per one-way commute if:
- Vehicle owned/leased by employer
- Employer requires the employee to commute for bona fide noncompensatory business reasons
- Written policy on personal use
- No control employees (elected officials)

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 What is Commuting?

- Driving from home to office or office to home
- Commuting is a taxable fringe benefit if done in the employer's vehicle
- Include all trips to and from work in 1 day (attend meeting in evening)
- Include if go in on weekends or evenings
- Include even if called in for an emergency

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 Commuting Method Example

How much would be included in the employee's wages for the benefit received?

- Supervisor takes car home every day
- Goes to work at 7 AM & goes home for lunch
- Comes back to office & goes home at 4 PM
- Comes back in for a mandatory meeting at 7 PM & returns home at 9 PM

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 Commuting Method

- Don't assume \$3 every day worked
- Include commuting on weekends, evening and lunch
- If someone is salary do you know if they came in on weekends or evenings?
- Could have business stop on way in or home and then wouldn't be commuting

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### Qualified Non-personal Use Vehicles (QNPV)

- Use of a QNPV is excludable to employee as a working condition fringe benefit
- Commuting is nontaxable to the employee
- Must have policy on restricting personal use of the vehicle
- Substantiation and record keeping is not required

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### Examples of qualified Non-personal use Vehicles

Clearly marked police and fire vehicles  
 Unmarked vehicles used by law enforcement officers

The officer must be:

1. Authorized & regularly carries a firearms
2. Execute search warrants
3. Make arrests (not citizen's arrest)

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### Examples of Vehicles

- Ambulance
- Dump truck
- Flatbed trucks
- Utility repair truck (not a pickup truck)
- Passenger buses (at least 20 passenger)
- Delivery trucks with driver seat only or driver & folding jump seat
- Vehicle designed to carry cargo - loaded gross vehicle weight over 14,000 lbs

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 **Uniform Requirements**

For uniforms to be nontaxable and not be included in the employee's wages they must:

- Be required by employer to be worn
  - Must be in written policy
  - Can't be optional if they wear them
- Not be adaptable to every day street wear

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 **Accountable Plan**

- Allowances paid through non- accountable plan are Taxable
  - If give employee \$200 for uniform and they don't provide substantiation (receipts) then must include in W-2
  - Business Connection
  - Return excess in reasonable time

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 **Law & Court Cases**

- If clothing suitable for taking the place of regular clothing, include in W-2
  - IRC 162 & 262
  - Mella v. Commissioner T.C. Memo 1968-594
- Not enough that the employee does not wear the clothing away from work
  - Pevsner v. Commissioner 628 F.2d 467

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**IRS Tax Information for Govt. Entities**

- [www.irs.gov](http://www.irs.gov)
  - File Tab (at top)
    - Government Entities

OR

- [www.irs.gov/govts](http://www.irs.gov/govts)

And then select:

- Tax Information for Federal, State & Local Governments

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