

FRINGE BENEFITS

**Sponsored by Washington State
Office of Financial Management
(OFM) and the Internal Revenue
Service Federal, State & Local
Governments (FSLG)**

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COURSE DESCRIPTION

- | General Rules of Fringe Benefits
- | 10 Topics on Fringe Benefits



FRINGE BENEFITS

GENERAL

RULES

WHAT IS A FRINGE BENEFIT?

- | Cash or Cash Equivalent,
- | Property and/or Services
in addition to regular wages

VALUING NON-CASH FRINGE BENEFITS

- | Fair-Market Value (FMV)
 - | What it would cost employee to buy benefit from an unrelated party (i.e., invoice, purchase by public, etc.)

REPORTING TAXABLE FRINGE BENEFITS:

- | Employees :

 - | Form W-2

- | Independent Contractors:

 - | Form 1099-MISC

ARE FRINGE BENEFITS TAXABLE?

- | Taxable to, or on behalf of, recipient unless specifically excluded by IRC
- | Taxable means subject to withholding and reported on W-2 in year benefit provided

TYPES OF TAXABILITY

- | TAXABLE (cash award)
- | NON-TAXABLE (health insurance)
- | PARTIALLY TAXABLE (above excluded amounts)
- | DEFERRED TAXATION (retirement)

SPECIAL ACCOUNTING RULES

- | Timing of Taxability -
Calendar Year
- | Alternative Rule for FITW
- | Special Accounting Period
- | Employer's Election

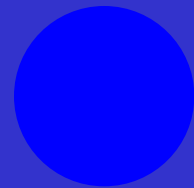
1. TIMING OF TAXABILITY

- | CALENDAR YEAR-CASH BASIS:
 - | INCLUDE TAXABLE FRINGE BENEFITS IN WAGES/INCOME WHEN RECEIVED

EMPLOYER'S ELECTION

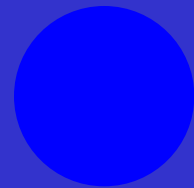
- | Treat Taxable Fringe Benefits as PAID:

- | Each Pay Period
- | Quarterly
- | Semi-Annually
- | Annual



ALTERNATIVE RULE:

- | Federal Income Tax Withholding
 - | Two Methods of Withholding
 - | Add to Regular Wages
 - | Use Supplemental Wage Rate - 25% Flat Rate (2009)



SPECIAL ACCOUNTING PERIOD:

- | Benefits Paid in November and December
- | Treat as Paid in Subsequent Year


ELECTION ON INCOME TAX WITHHOLDING

- | Employer may elect NOT to WITHHOLD Income Tax on Taxable Use of Employer-provided Vehicles:
 - | Inform Employee
 - | Include on W-2 for FICA purposes

ACCOUNTABLE PLANS

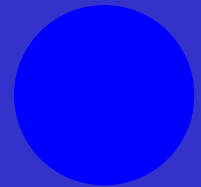


ACCOUNTABLE PLAN?

Allowance or Reimbursement 
whereby amounts are Non-Taxable,
If certain rules are met

THREE RULES:

- | Business Connection
- | Adequate Accounting
- | Excess returned



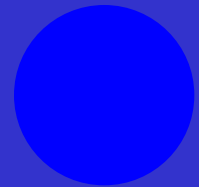
Business Connection

- | Directly Related to Trade or Business
- | Deductible on 1040 by the employee

Adequate Accounting

Verify

- | Date
- | Time
- | Place
- | Amount
- | Business Purpose



Documentary Evidence

- | Original receipts
- | Contemporaneous records
- | Exclusions:
 - | “Per diem” expenses
 - | < \$75.00 individual expenditure
 - | Transportation expenses IF receipt not readily attainable (Qualified Transportation benefit)

Return Excess Timely

- | Within a reasonable period of time
- | Follow employer's policies

TIMELINESS SAFE HARBORS

- | Fixed Rate Method - 150 days
- | Periodic Statement Method - 210 days
- | Other Reasonable Method

OTHER ACCOUNTABLE PLAN RULES:

- | Employers
 - | can have multiple expense plans
 - | can have accountable and non-accountable plans
 - | may be more restrictive
- | Employees cannot compel Employer to have Accountable Plan
- | Rules apply to Independent Contractors, too!

NON-ACCOUNTABLE PLAN:

- | Does NOT meet ALL 3 Rules
for Accountable Plan

= TAXABLE TO RECIPIENT

WHEN TO WITHHOLD?

Accountable Plan:

- | No Withholding if All 3 Rules Met
- | Otherwise, Withhold no later than 1st Payroll Period Following Reasonable Period

NON-Accountable Plan:

- | Withhold When Reimbursements Made

SUBSTANTIATION LATE?

- | If, employee substantiates AFTER employer has treated as wages,
- | Then,
 - | Employer is NOT REQUIRED to refund withholding taxes or treat any amounts as nontaxable

TRAVEL ADVANCES

- | Reasonable Timing Relationship
 - | Advance to Date of Travel
- | Reasonable Amount Relationship
 - | Size of Advance and Estimated Expenses
- | Follow Accountable Plan Rules
 - | All 3 Rules

TRAVEL ADVANCE

- | Subject to Accountable Plan Rules
 - | All 3 Rules met = Non-taxable reimbursement
 - | If not met, then include in wages:
 - | No later than 1st payroll period after “reasonable” period
 - | Once in wages, Employer cannot reverse after calendar year ends

FRINGE BENEFIT CODE SECTIONS

- | Examples:
 - | IRC 117(d) - Qualified Tuition Reductions
 - | IRC 119 - Meals and Lodging
 - | IRC 125 - Cafeteria Plans
 - | IRC 127 - Educational Assistance Programs
 - | IRC 129 - Dependent Care Assistance
 - | **IRC 132 - General Fringe Benefit Section**

NON-TAXABLE FRINGES

IRC 132:

- | (b) No-Additional Cost Service
- | (c) Qualified Employee Discounts
- | (d) Working Condition Fringe Benefits
- | (e) De Minimis Fringe Benefits
- | (f) Qualified Transportation Fringe Benefits
- | (g) Qualified Moving Expense Reimbursements

132(b) - NO-ADDITIONAL-COST SERVICES

- | Rarely used by governmental employers
- | Example: Public Transit Employees allowed to commute on public transit systems at no cost

132(d) - WORKING CONDITION FRINGE BENEFIT

Definition:

- Property or service that the employee would have been entitled to deduct on Form 1040, if employer hadn't provided it

WORKING CONDITION FRINGE BENEFIT

General Rules:

- | Must Relate to Employer's Business
- | Employee Could Have Deducted on Form 1040
- | Employee Must Substantiate Expenses
- | Additional requirements for certain benefits

WHO IS EMPLOYEE FOR WORKING CONDITION FRINGES?

- | Current Employees
- | Partners or Directors
- | Independent Contractors
- | Volunteers

DO NOT QUALIFY AS WORKING CONDITION FRINGES:

- | Cash Payments or Equivalent
 - | Unless under an Accountable Plan
- | Physical Exams (See IRC 105)
- | Club Dues

IRC 132(e) - DE MINIMIS FRINGE BENEFIT

- | WHAT IS De Minimis?
 - | Property or service that is small in value,
 - | Administrative burden to track, and
 - | Provided to employee infrequently, not regularly

EXAMPLES OF DE MINIMIS FRINGE BENEFITS:

- | Photocopier Use
- | Group Meals, Picnics
- | Theater or Sporting Event Ticket
- | Coffee, Doughnuts, Soft Drinks
- | Flowers, Fruit for Special Circumstances
- | Local Telephone Calls

DO NOT QUALIFY AS **DE MINIMIS:**

- | Cash OR Cash Equivalent
- | Certain Transportation Fares
- | Use of Employer's Vacation Property, Boats, Ski-Doos, ATVs, etc.
- | Commuting Use of Employer's Vehicle More Than Once a Month

WHO IS EMPLOYEE FOR DE MINIMIS FRINGES?

X ANY RECIPIENT

CLIFF PROVISION:

- * If benefit does NOT qualify as de minimus, then the Entire Amount is taxable, not just portion that exceeds de minimis limits!

Let's Take a Break!



IRC 132(f) -QUALIFIED TRANSPORTATION FRINGE (QTF) BENEFITS

Personal Commuting Provided by Employer

Qualified Transportation Fringes (QTF's)

- | Commuter Highway Vehicle
- | Transit Passes
- | Qualified Parking
- | Qualified Bicycle Commuting Expenses

QTF'S:

| Non-Taxable to Employees, IF:

FMV Doesn't Exceed Monthly Limits

QTF'S

- | Valued at FMV
- | Can be combined with other benefit
- | Cash reimbursements allowed
- | Cash advances not permitted
- | Can be limited to highly-compensated employees
- | Not allowed under Section 125 plans

QTF'S

- | COMMUTER HIGHWAY VEHICLE
 - | Provided by, or for, Employer
 - | Travel between Residence/Parking Lot and Workplace
 - | Seats at least 6 adults plus driver
 - | Employees fill half of capacity plus driver
 - | 80% of use is for transporting Employees

QTF'S

COMMUTER TRANSPORTATION MAY INCLUDE:

- | Van Pools
- | Vehicles owned by Transit Authorities
- | Vehicles owned and operated by Employees

TRANSIT PASSES

- | Any Pass, Token, Fare Card, Voucher
- | Used for Mass Transit
- | Dollar Limit: \$125/month in 2012
- | IF Employer distributes - No Substantiation Requirements

TRANSIT PASSES

- | Can be combined with qualified parking
 - | \$240/month + \$125/month = \$365/month
- | Cash Reimbursements – Special Rule
 - | Non-taxable ONLY if voucher not readily available for direct distribution to employees

QUALIFIED PARKING

- | On or Near Business Premises
- | On or Near Commuting Center (Park and Ride)
- | Dollar Limit: \$240/Month (2012)
- | Can be combined with transit pass

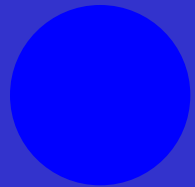
QUALIFIED BICYCLE SUBSIDY*

- | Can NOT be combined with transit passes or qualified parking
- | Value: \$20 per qualified bicycle commuting month (regularly commutes by bicycle)
- | Non-taxable reimbursements for purchase, repair, or storage
- | Effective January 1, 2009

| *Section 211 – Emergency Economic Stabilization Act of 2008

SALARY REDUCTION AGREEMENTS:

- | Employee Election between:
 - | Fixed Amount of Cash, or
 - | a Qualified Transportation Fringe Benefit
- | Written Election
 - | Date
 - | Amount of Compensation to be Reduced
 - | Period for which the election is valid



SALARY REDUCTION AGREEMENTS:

- | May Not Exceed Combined Monthly

Limits:

- | Transit Pass plus Qualified Parking
 - | \$ 365.00/month (2012)

QTFs

| Other Local Transportation Benefit Exclusions:

- | Occasional Cab Fare
- | Unusual Circumstances and Unsafe Conditions
- | Unsafe Conditions Alone

OTHER LOCAL TRANSPORTATION BENEFITS

- | Occasional Cab Fare
 - | Any employee
 - | Reasonable and occasional AND
 - | Permits overtime work



OTHER LOCAL TRANSPORTATION BENEFITS

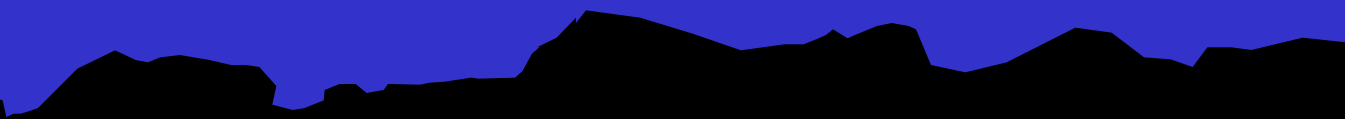
- | Unusual Circumstance AND Unsafe Conditions
 - | Taxed under Commuting Rule @\$1.50 each way
 - | Not available to “control” employees (elected official or employees \geq \$145,700 2012 annual salary)
 - | Unusual circumstances must be present

OTHER LOCAL TRANSPORTATION BENEFITS

Unsafe Conditions Only

- | Taxed under Commuting Rule @\$1.50 each way
- | Written Plan Required
- | Restricted To FLSA-covered employees

TRAVEL EXPENSE REIMBURSEMENTS



TRAVEL EXPENSES

- | Includes Costs:
 - | Travel to, from, and at Business Location
 - | Lodging, Meals and Incidental Expenses
 - | Laundry, Dry Cleaning and Other Expenses



TRAVEL EXPENSES

- | Incurred for temporary traveling away from tax home overnight on business
- | Non-taxable reimbursements:
 - | if paid under Accountable Plan

TAX HOME

- | One Regular or Main Place of Business
- | More Than One Regular or Main Place
- | No Regular or Principal Place

TAX HOME

Regular Place of Business

- | Includes general vicinity or area where the employee performs services
- | In most cases, employer's office or jurisdiction is tax home

TAX HOME

- | If More Than One Regular or Main Place of Business
 - | Generally where the majority of the services are performed

TAX HOME

- | No Tax Home
 - | ALL Travel expenses are taxable
- | Personal Residence May Qualify as Tax Home
 - | See IRC Section 280A (Home Office) Rules

TAX HOME

- | State Legislators may elect personal residence within the legislative district as tax home

AWAY FROM TAX HOME

- | Employee must stay overnight
or
- | Travel longer than an ordinary workday and stop for substantial sleep or rest

“SLEEP OR REST” RULE

- | Court Cases Define “Sleep or Rest”:
 - | No set distance or hours traveled
 - | Sleeping or resting in car doesn’t qualify
 - | Usually applies to transportation workers

TEMPORARY AND INDEFINITE ASSIGNMENTS

| Temporary Assignments -
Non-Taxable = Less Than 1 Year

| Indefinite Assignments -
Taxable = 1 year or more:

TEMPORARY AND INDEFINITE ASSIGNMENTS

- | Temporary or Indefinite?
 - | Employer must make decision on length of assignment when the assignment begins

TEMPORARY ASSIGNMENT:

- | Duration At Single Location expected to last AND actually lasted <1 year;
- | Assignment away from tax home; AND
- | Maintains tax home.
- | If return to tax home, then the LESSER of Travel expenses to return home OR cost to stay

INDEFINITE ASSIGNMENT:

- | Duration at Single Location:
 - | Expected to Last Longer than 1 Year.

OR

- | Actually Lasts Longer than 1 Year

TEMPORARY ASSIGNMENT CONVERSION TO INDEFINITE ASSIGNMENT:

Upon Lapse of One Year

OR

Date When Expectations Change

TRAVEL EXPENSES:

- | Travel Away From Tax Home:
 - | **OVERNIGHT - Non-Taxable**
 - | **ACTUAL AND PER DIEM METHODS**
- | Accountable Plan Requirements

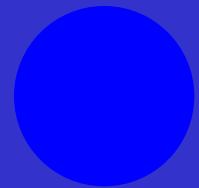
PER DIEM AND OTHER SIMILAR PAYMENTS

WHAT IS PER DIEM?

- | Method of reimbursing employees for certain business expenses for overnight travel WITHOUT substantiation by the employee
- | Rates of reimbursements based on location of lodging (Pub 1542)

PER DIEM BREAKDOWN

- | Per Diem consists of:
 - | Lodging
 - | Meals and Incidental Expenses (M&IE)



PER DIEM RULES

- | Rates at, or below, established federal rates
- | “Deemed Substantiation” of amount BUT employee must establish Time, Date, and Business Purpose
- | Employer policies may be more stringent

PER DIEM:

- | Miscellaneous Expense Exclusion
- | Optional Method for Incidental Expenses @ \$3.00/day (or partial day):
 - | Business Travel Away from Tax Home, AND
 - | Does not Pay or Incur Meal Expenses, AND
 - | Does not Receive Per Diem or M&IE expenses

IN ADDITION TO M&IE

- | Miscellaneous Expenses:
 - | Cab Fare, Fax/Telephone Charges, Room Taxes, Energy Surcharges
 - | Laundry, Cleaning and Pressing of Clothes

PER DIEM M&IE SPECIAL RULE:

- | PRORATE - M&IE on days of departure and return:
 - | 3/4 RULE OR
 - | ANY OTHER REASONABLE METHOD

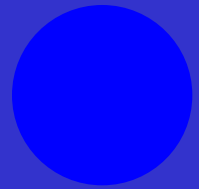
PER DIEM

- | Travel to More Than One Location?
 - | Use rates established in location where the employee spends the night

PER DIEM - OTHER RULES:

- | Other Methods - See Pub. 1542
 - | High-Low Method
 - | Meals Only Substantiation Method
- | Under a Non-Accountable Plan
 - | = Wages Subject to All Withholdings

TRANSPORTATION EXPENSE REIMBURSEMENTS



TRANSPORTATION EXPENSE REIMBURSEMENTS

- | Local Transportation Costs for Business
- | Not Away from Home Overnight

TRANSPORTATION EXPENSE REIMBURSEMENTS

- | Expenses for local business travel in area of tax home
- | Includes air, train, taxi, car, parking
- | Does not include meals or lodging

TRANSPORTATION EXPENSES SUBSTANTIATION METHODS

- | Non-Taxable IF under Accountable Plan Rules
- | Apply same Substantiation Tests as Travel Away from Tax Home

TEMPORARY AND INDEFINITE ASSIGNMENTS

- | Applies towards travel between employee's *residence* and work location, immaterial of distance

TEMPORARY ASSIGNMENT TRANSPORTATION EXPENSES

- | Temporary – Not Taxable IF:
 - | At Single Location
 - | Expected to Last and Lasts Less than 1 Year
 - | Away from Main Place of Work
 - | Commuting reimbursements excluded (between residence and tax home)

INDEFINITE ASSIGNMENT TRANSPORTATION EXPENSES

- | Taxable IF:
 - | At Single Location
 - | Expected to Last More than 1 Year
 - | Away from Main Place of Work
 - | 7-month Break Between Assignments = New Assignment

CONVERSION OF ASSIGNMENTS

- | Temporary Assignment UNTIL Date the Expectations Change
- | Non-taxable Reimbursements up to Date of Change

TRANSPORTATION VS. COMMUTING

┆ Non-Taxable Transportation :

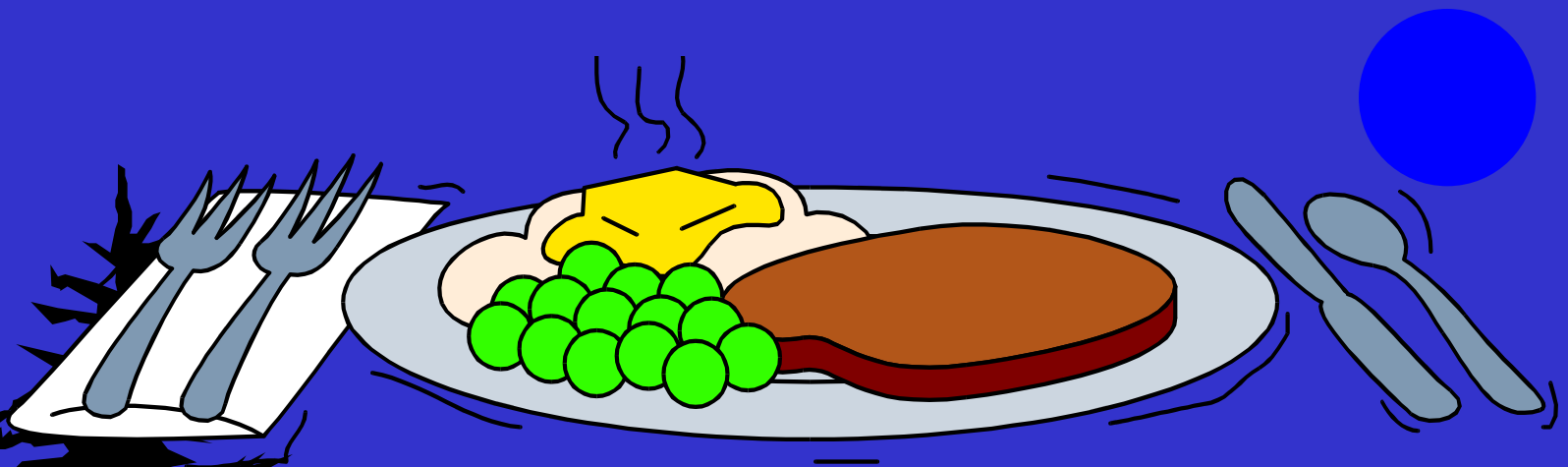
- ┆ Residence to temporary work site and back
- ┆ Regular place of business to temporary work site
- ┆ Temporary work site to temporary work site

TRANSPORTATION VS. COMMUTING

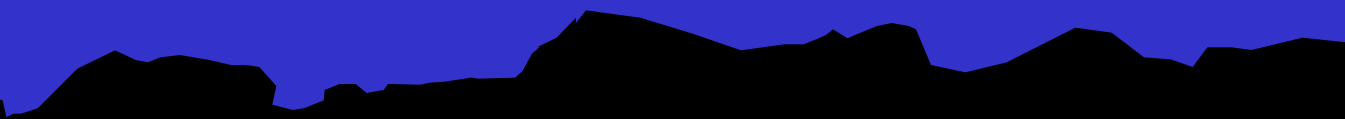
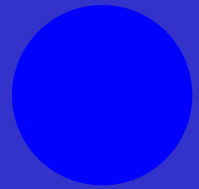
- | Taxable Commuting:
 - | Residence to office
 - | even if required by employer
 - | even after work hours
 - | even on weekends or holidays



LET'S EAT LUNCH!

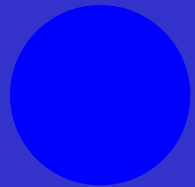


MOVING EXPENSES



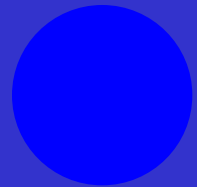
MOVING EXPENSES

- | IRC Section 217:
 - | Allows Individual to Deduct Certain Expenses
- | IRC Section 132(g):
 - | Allows Employer to Reimburse Employee
- | Publication 521



MOVING EXPENSES

- | Non-Taxable to Employee, if:
 - | Paid under Accountable Plan, AND
 - | Specific Tests of IRC 217 are met



IRC 217 TESTS:

- | Must be an Employee
- | Expenses Actually Incurred
- | Expenses closely related to start of work at new job location
- | Expenses Must Meet Time and Distance Tests
 - | 39 Weeks and 50 Miles (employees)

IRC 217 TIME TEST

| Time Test:

39 weeks during first 12 months at new location:

- | You do not have to work for the same employer for all 39 weeks
- | You do not have to work 39 weeks in a row
- | You must work full time within the same general commuting area for all 39 weeks

ALLOWABLE EXPENSES

- | Reasonable costs for moving:

- | Household Effects*

- | Travel Using the Shortest and Most Direct Route

- *See Pub 521 for includible and excludable items

MOVING EXPENSES

Non-Taxable Costs of Travel:

- | Moving Other Members of Household
- | Airfare
- | Mileage:
 - | 19 cents/mile - Jan. 1, 2011
 - | 23.5 cents/mile - July 1, 2011
 - | 23 cents/mile – Jan. 1, 2012
- | Lodging while traveling
- | Parking fees, tolls

MOVING EXPENSES

- | Non-Taxable Costs for Moving Household Effects
 - | Packing, Crating, Transporting
 - | Shipping Car(s)
 - | Shipping Pet(s)
 - | Storage & Insurance (not more than 30 consecutive days)

TRAVEL TIME for TRAVELING EXPENSES

- | Limited to One trip for employee and family members
- | What is meant by Travel Time:
 - | BEGINS: 1 day after former home no longer available
 - | ENDS: date employee secures lodging at new location

MOVING EXPENSES

- | REIMBURSEMENTS are not included in income if:
 - | Expenses qualify under IRC 217, and
 - | are reimbursed in the same calendar year they are incurred

MOVING EXPENSES

TIMING OF TAXABILITY

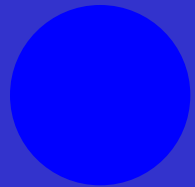
- | Calendar Year - Cash Basis Payee
- | Reimbursements in Year Received

MOVING EXPENSES

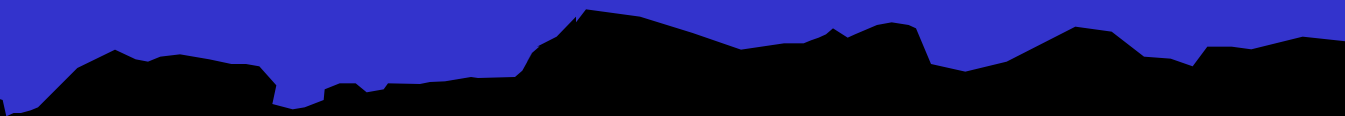
- | Timing of Taxability
 - | Exception to Cash-Basis and Year Received:
 - | Non-taxable Reimbursements Permitted after Expiration of 12-month Period of Arrival IF Facts and Circumstances Support Expenses

MOVING EXPENSES

- | Employer Reporting on Form W-2
 - | Taxable Wages -
 - | Boxes 1, 3, and 5 (Subject to Withholding)
 - | Non-Taxable Reimbursements –
 - | Box 12, Code P



IRC 119 - MEALS AND LODGING



MEALS FOR CONVENIENCE OF EMPLOYER

- | Meals are Non-Taxable IF:
 - | Provided in-kind, and
 - | On employer's premises, and
 - | For employer's convenience

LODGING FOR CONVENIENCE OF EMPLOYER

- | Lodging is Non-Taxable, IF:
 - | Provided in-kind, and
 - | On employer's premises, and
 - | For employer's convenience, and
 - | Required as condition of employment

MEALS AND LODGING

- | “In-Kind”
 - | Not cash (neither advance or reimbursement)
 - | Meals consumed on premises
 - | If employee has choice of meals/lodging or cash, meals or lodging are taxable

MEALS AND LODGING

- | “On Employer’s Premises”:
 - | Place employee performs substantial duties
 - | “On”, not “near” - within business perimeter
 - | Can be temporary worksite of employer

MEALS FOR CONVENIENCE OF EMPLOYER

- | “Convenience of Employer” :
 - | Provided for Substantial Non-Pay Reason
 - | Depends on facts and circumstances

LODGING FOR CONVENIENCE OF EMPLOYER

- | Required as Condition of Employment
- | So Employee Can Perform Job Duties
- | Example:
 - | Firefighters provided meals and lodging at fire station

MEALS AND LODGING FOR CONVENIENCE OF EMPLOYER:

- | Lodging for Educational Institutions
 - | Non-Taxable Campus Lodging
 - | Located on/near Campus
 - | Employee Pays Rent
 - 5% ALV or Comparable to Students/Non-employees

MEALS AND LODGING FOR CONVENIENCE OF EMPLOYER:

- | Meals or Lodging Furnished with a Charge
 - | Taxable Wages Reduced by Mandatory Charge Amount
 - | If employee can elect to purchase, then no reduction in taxable wages

MEAL REIMBURSEMENTS



IRC 274 - MEAL REIMBURSEMENTS

- | Meals While Traveling
- | Meals While Not Traveling
 - | Meals with Meetings or Entertainment
 - | De minimis Meal Allowances

MEAL REIMBURSEMENTS

- | Meals While Traveling Overnight
- | Non-taxable IF reimbursed under the Accountable Plan Rules

MEAL REIMBURSEMENTS

1 Meals Not Away From Home

1. Meals with Meetings and/or Entertainment
2. De minimis Meals

MEAL REIMBURSEMENTS

- | Meals with Meetings or Entertainment
 - | Non-Taxable, If meal meets either test:
 - | Directly-Related Test, or
 - | Associated With Test

MEAL REIMBURSEMENTS

- | Directly Related Test
 - | Clear Business Setting
 - | Main Purpose of Meal is Business is the Active Conduct of Business, AND
 - | Business is Actually Conducted, AND
 - | Expectation of Deriving Income or Other Specific Business Benefit

MEAL REIMBURSEMENTS

- | “Associated With” Test
 - | Associated with the Active Conduct of Business, AND
 - | Substantial Business Discussions/Negotiations Directly Preceding or Following Meal

MEAL REIMBURSEMENTS

- | Active Conduct of Business
 - | Must Establish a Clear Business Reason for the Incurrence of the Meal Expense
 - | Depends on Facts and Circumstances
 - | Must Demonstrate the Business Discussion was Substantial in Relationship to the Meal

TRADE OR PROFESSIONAL ASSOCIATION MEETINGS

- | Non-taxable when:
 - | Necessary and directly related expense to attending business meetings or conventions of certain exempt organizations
 - | Substantiation Required
- | Examples of Meetings:
 - | Chamber of Commerce, Rotary, Kiwanis

MEAL REIMBURSEMENTS

– De Minimus Meals

- | Non-taxable, IF:
 - | Meal is Small in Value, AND
 - | Occasional - Not provided routinely or often, AND
 - | Provided for Overtime Work
 - | Extends Normal Work Schedule
 - | Meal Consumed During the Overtime Period

MEAL REIMBURSEMENTS

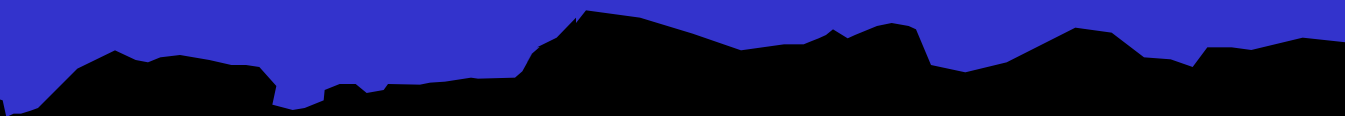
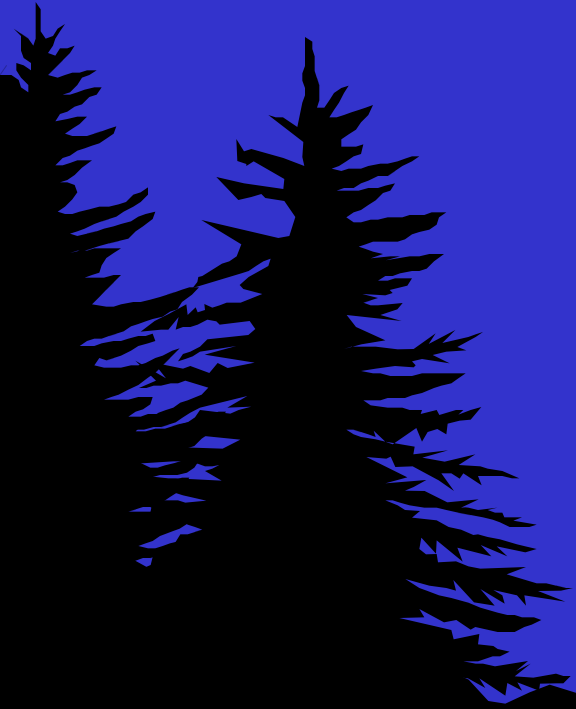
- | De Minimis Meal
 - | Taxable IF
 - | Based on Number of Hours Worked
 - | Negotiated by contract
 - | Stated in Business Policy

MEAL REIMBURSEMENTS

- | Substantiation Under Accountable Plan Rules:
 - | Use Actual or Per Diem Method for Overnight Travel
 - | Use Actual Method for all Other Situations



TAKE A BREAK!





**EMPLOYEE VEHICLE
USED FOR
EMPLOYER'S BUSINESS**

EMPLOYEE'S VEHICLE

Reimbursed Business Mileage is Non-Taxable

IF At or Below Standard Federal Mileage Rates

STANDARD MILEAGE RATES

- | 2009: \$.55 Per Mile
- | 2010: \$.50 Per Mile
- | 2011: \$.51 Per Mile (Jan.-June)
\$.555 Per Mile (July-Dec)
- | 2012: \$.555 Per Mile

EMPLOYEE'S VEHICLE:

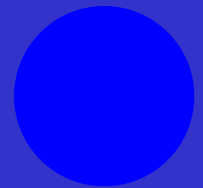
- | Personal use is always taxable
 - i.e.: Commuting to and from workplace
- | Excess over federal rate is taxable and reportable on Form W-2 –
 - | Non-taxable Reimbursements up to Mileage Rate
 - | Excess Reimbursements
 - | Box 12, “L”-coded
 - | Box 1, 3, and 5 (subject to withholding taxes)

SUBSTANTIATION REQUIREMENTS

- | Employee required to provide substantiation to employer
- | Date, Business Purpose, Place of Each Trip
- | Contemporaneous Record of Expense

EMPLOYEE'S VEHICLE

- | If employee chooses NOT to take reimbursement from employer:
 - | Employee cannot take Deduction on Form 1040





EMPLOYER - PROVIDED VEHICLES

EMPLOYER - PROVIDED VEHICLES

- | Personal use is Taxable
 - | Commuting
 - | Vacation, weekend, use by spouse
- | Taxable use
 - | Withhold and Report on W-2

DE MINIMUS NON-TAXABLE PERSONAL USE:

- | Small Personal Detour While on Business, i.e. driving to lunch while out of office
- | Infrequent (not >one day/month) and Occasional Use for Commuting

SUBSTANTIATION REQUIREMENTS

- | Business vs. Personal Miles
Must Be Recorded
- | IF NO RECORDKEEPING:
 - | Value of All Auto Use is Wage
- | IF RECORDS ARE PROVIDED:
 - | Only Personal Use is Wage

EMPLOYER - PROVIDED VEHICLES VALUATION METHOD

- | Personal Miles/Total Miles =
Percentage of Personal Use
- | Apply General or ALV Valuation
Method
- | Multiply Percentage of Personal Use
by Valuation Method

EMPLOYER - PROVIDED VEHICLES

- | **Valuation Methods**
 - | General Valuation Method
 - | Three Special Valuation Rules
 - | Automobile Lease Valuation (ALV) Rule
 - | Cents-Per-Mile Rule
 - | Commuting Rule

EMPLOYER - PROVIDED VEHICLES

- | General Valuation Rule

- | Multiply Percentage of Personal Use x
FMV of vehicle
- | FMV is cost to lease vehicle

EMPLOYER - PROVIDED VEHICLES

- | Automobile Lease Valuation (ALV) Rule
 - | Determine FMV
 - | Establish ALV using IRS Tables (Pub 15-B)
 - | Multiply Percentage of Personal Use x Lease value, and
 - | Multiply personal miles x 5.5 cents if employer provides fuel

AUTOMOBILE LEASE VALUATION RULE:

- | VALUE REMAINS IN EFFECT
 - | Until December 31st of 4th Full Calendar Year After Rule Applied

Vehicle Cents-Per-Mile Rule

- | Vehicle must be used:
 - | regularly 50% or more in employer's business, or
 - | in commuter pool, or
 - | be driven 10,000 miles or more per year

Vehicle Cents-Per-Mile Rule

- | Use Rule until Vehicle no longer Meets Requirements

- | CANNOT be used for vehicles with FMV*
| greater than \$15,900 (cars) or \$16,700 (trucks)

OR

- | greater than \$21,100 (cars) or \$21,900 (trucks) using
| the Fleet valuation method

- | * 2012 valuation

Vehicle Cents-Per-Mile Rule

Calculation:

- Multiplies Personal Miles x Federal Mileage Rate
- If Fuel is NOT provided, reduce by 5.5 cents/mile

COMMUTING VALUATION RULE - \$1.50 EACH WAY

- | Vehicle Owned/Leased by Employer
- | Provided to employees for Business Use, AND
- | Employer Requires Employees to Commute in Vehicle for Non-Compensatory Reasons, AND
- | Written Policy Prohibiting Personal Use OTHER THAN Commuting, AND
- | Employees' Use limited to De Minimus Personal Use

COMMUTING VALUATION RULE - \$1.50 EACH WAY

- | If More Than One Employee Commutes in the Vehicle, then ALL Employees are Charged for the Commuting Value
- | “Control Employees” are Ineligible

COMMUTING VALUATION RULE - \$1.50 EACH WAY

“CONTROL” EMPLOYEE

- Elected Official, OR
- Employee at Executive Level V
@ \$145,700 Annual Salary (2012),
OR
- Highly-Compensated Employees
@ \$115,000 (2012)

EMPLOYER - PROVIDED VEHICLES

- | Qualified Non-Personal Use Vehicle
- | All Use is Non-taxable to employee
- | Recordkeeping/Substantiation is Not Required

QUALIFIED NON- PERSONAL USE VEHICLE:

- | By Design, Vehicle is NOT LIKELY to have personal use
- | Clearly Marked Police and Fire Vehicles
- | School Buses
- | Certain Special Purpose Vehicles
- | Unmarked Law Enforcement Vehicles
 - | Special Rules Apply

QUALIFIED NON- PERSONAL USE VEHICLE:

- | Clearly Marked Police/Fire Vehicles
 - | Marking on license plate doesn't qualify
 - | Employee must always be on call
 - | Employee must be required to use vehicle
 - | Personal use outside jurisdiction prohibited

QUALIFIED NON- PERSONAL USE VEHICLE:

- | Unmarked Law Enforcement Vehicle
 - | Employer Must Authorize Personal Use
 - | Personal Use Incidental for Use for Law Enforcement Purposes
 - | Employer must be Responsible for Crime Prevention and Investigation
 - | Employee must be Full-time Law Enforcement Officer

QUALIFIED NON- PERSONAL USE VEHICLE:

- | Unmarked Law Enforcement Vehicle (Continued)
 - | Law enforcement officer is
 - | authorized to carry weapons
 - | execute warrants
 - | make arrests

QUALIFIED NON- PERSONAL USE VEHICLE:

- | Qualified Specialized Utility Repair Truck
 - | By Design
 - | to Carry Tools, Equipment, Materials, etc.
 - | Permanent Interior Construction
 - | Employer Requires Employee to Commute for Valid Non-compensatory Reasons (e.g., emergency call-outs)

QUALIFIED NON-PERSONAL USE VEHICLE:

- | Vans and Pick-up Trucks
 - | Specifically Modified
 - | If GVW \leq 14,000 pounds, Must be Clearly Marked with Permanent Fixtures
- | Vans
 - | Seat for Driver (or one other person), AND
 - | Outfitted with Permanent Shelving, OR
 - | Open Cargo for Transport of Materials used in the Business

QUALIFIED NON-PERSONAL USE VEHICLE:

- | Pick-up Trucks
 - | Equipped With:
 - | Hydraulic Lift Gate, OR
 - | Permanent Tanks or Drums, OR
 - | Permanent Sideboards/Panels to Raise Side Levels of Truck Bed

AND Used as Primary Transport of
Loads/Materials

EMPLOYER - PROVIDED VEHICLES

- | Substantiation By Employee Not Required
 - | If Commute Value Rule Used, or
 - | If Qualified Non-Personal Use vehicle, or
 - | If Vehicle Not Used for Personal Use
 - | generally applies to motor pool vehicles
 - | other requirements

VEHICLE NOT USED FOR PERSONAL PURPOSES:

- | Owned or Leased by Employer
- | Provided to Employee for Business Use
- | Kept on Employer's Premises
- | Written Policy Prohibiting Personal Use
- | Employer Believes No Personal Use

VEHICLE NOT USED FOR PERSONAL OTHER THAN COMMUTING:

- | Owned or leased by employer
- | Provided to employee for business use
- | Employer REQUIRES employee to commute for valid business purpose
- | Written Policy prohibiting personal use
- | Employee does NOT have personal use

EMPLOYER-PROVIDED VEHICLES:

- | Non-Personal-Use Cars:

- | Employers Must Maintain :

- | Written Policy Restricting Personal Use
- | Internal Controls

INDEPENDENT CONTRACTOR EXPENSES

INDEPENDENT CONTRACTORS

- | Payments under Accountable Plan Rules
 - | Non-taxable
- | Non-Accountable Plan Payments
 - | Taxable
- | Contributions to IRC 457(b) Plan
 - | Reported on Form 1099-MISC

INDEPENDENT CONTRACTORS or EMPLOYEES

Board or Commission Members

- | Employees for Income Tax Withholding Purposes IF Holding Public Office
- | Employees for FICA tax purposes IF
 - | Covered by Section 218 Modification, OR
 - | Meets Common-law Employee Standard

INDEPENDENT CONTRACTORS OR EMPLOYEES?

- | Elected Officials
 - | Generally Employees
- | Appointed Officials
 - | Can be either Employees or Independent Contractors, depending on facts and circumstances

Dual Employment Status of Individuals

- Workers hired as employees may perform services as independent contractors IF performing services for work outside of their regular positions
- Example: A DOT employee may bid on landscaping contracts for a state agency that normally contracts out this work.

EQUIPMENT and ALLOWANCES

- | Subject to Accountable Plan Rules
- | Work Clothes and Uniforms
 - | Specifically Required as Condition of Employment, AND
 - | Not Worn or Adaptable to General Usage as Ordinary Clothing
- | If Clothing qualifies as non-taxable, then associated costs of upkeep are non-taxable

EQUIPMENT and ALLOWANCES

- | Safety Equipment
 - | Excludable IF Equipment allows the Employee to Perform Services in a Safer Environment
 - | Does NOT Need to be Required by Employer
 - | Subject to Accountable Plan Rules

Cell Phones and Electronic Devices

- | Notice 2009-46 and Notice 2011-72– Proposed Safe Harbors as working condition fringe benefit for ER-provided cell phones
- | IRS Memorandum SBSE_04-0911-083 – de minimus fringe benefit for EE-provided cell phones
- | Employer monitoring required

RESOURCE LIST

FSLG Fringe Benefit Training guide

http://www.irs.gov/pub/irs-tege/fringe_benefit_fslg.pdf

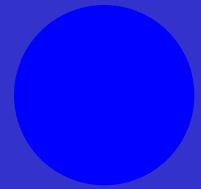
Publication 15-B, Employer's Guide to Fringe Benefits

Publication 463, Travel, Entertainment, Gift and Car Expenses

Publication 521, Moving Expenses

Thank you!

Before Leaving –
Complete OFM and IRS
Evaluation Forms



THANK YOU!

