



## **TAXABILITY OF FRINGE BENEFITS - PARTS 1 & 2**

What is a Fringe Benefit &  
When Is It Taxable?

Commonly Provided Fringes



## Presenter

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- Internal Revenue Service
  - Tax Exempt and Government Entities
    - Federal, State & Local/Employment Tax (FSL/ET)
    - Formerly Federal, State & Local Governments (FSLG)
- Michael Durland
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# What Is a Fringe Benefit?

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- Cash
- Property
- Services
  - in addition to regular wages



## Are Fringe Benefits Taxable?

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- Taxable to employee unless specifically excluded by IRC
- Taxable means subject to withholding and reported on W-2 in year benefit provided



# Special Accounting Rules

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- Reporting period
- Regular or supplemental withholding
- November/December benefits election
- Election not to withhold



# Valuing Non-Cash Fringe Benefits

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FMV:

- What would it cost employee to buy benefit from an unrelated third party?



# Fringe Benefit Code Sections

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Examples:

- IRC 119 – Meals and Lodging
- IRC 127 – Educational Assistance
- IRC 132 – General Fringe Benefit Section



# Working Condition Fringe Benefit

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## Definition:

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





# Working Condition Fringe Benefit

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## General Rules:

- Must relate to employer's business
- Employee could have deducted expense on 1040
- Employee must substantiate business use



# IRC 132(e)-De Minimis Fringe Benefit

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## General Rules:

- Property or service that is:
  - small in value, and
  - provided to employee infrequently, not regularly



# What Is A Per Diem Payment?

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- Method of reimbursing employees for business expenses for overnight travel
- Reimbursement tax free if rules are met



## Per Diem

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Tax free, if:

- Accountable plan rules are followed, and
- Per diem reimbursement is at or below federal rates
- Receipts are not required



# Per Diem Breakdown

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Per diem consists of:

- lodging
- meals and incidental expenses (M&IE)
  
- Rates vary by city



## Lodging Per Diem

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- Use rate of city where you spend the night
- Room tax and energy charges are not part of lodging; they are reimbursed separately



# M&IE Per Diem

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Includes:

- Meals
- Tips for food and luggage handling
- Laundry and dry cleaning for travel of less than 4 consecutive nights



## Per Diem – Other Rules

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- Prorate M&IE for days employee departs and returns
- Employer may pay other tax-free business expenses in addition to per diem:
  - room taxes
  - cab
  - telephone charges
  - laundry





# Accountable Plans

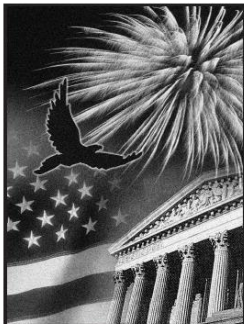
- Visit [Pub 463](#), *Travel, Entertainment, Gift, and Car Expenses*

 Department of the Treasury Internal Revenue Service

**Publication 463**  
Cat. No. 11081L

## Travel, Entertainment, Gift, and Car Expenses

For use in preparing  
**2014 Returns**



Get forms and other information faster and easier at:  
• [IRS.gov](#) (English) • [IRS.gov/Korean](#) (K-T-H)  
• [IRS.gov/Spanish](#) (Español) • [IRS.gov/Japanese](#) (J-P) • [IRS.gov/Chinese](#) (中文) • [IRS.gov/Chinese](#) (繁體中文)

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## What is an Accountable Plan?

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- Employee is given allowance or reimbursement
- Amounts are non-taxable, if certain rules are met



# Accountable Plan Rules

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- Business connection
- Adequate accounting
- Excess returned on a timely basis



# Business Connection

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- Directly related to trade or business
- Deductible on 1040



# Adequate Accounting

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Verify:

- Date
- Time
- Place
- Amount
- Business Purpose



# Excess Returned Timely

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- Return of excess
  - Within a reasonable period of time



# Non-Accountable Plan

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- Does not meet ALL THREE RULES for Accountable Plans



## Examples

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1. Expense reimbursement, or allowance?
2. Advance, allowance, or reimbursement?
3. Reimbursements without substantiation are wages





# Cell Phones

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- No longer considered listed property
  - Notice 2011-72, 2011-38 I.R.B. 407



# Accident and Health Care Plans

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- Internal Revenue Code Section 105(b)
  - Exempts employer payments for certain medical expenses
  - Includes the cost of insurance
    - Accident, health, and qualified long-term care
  - Contributions to trust or fund to directly or via insurance provide benefits
  - Contributions to Archer MSAs or HSAs



# Accident and Health Care Plans

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- Certain reimbursements to employees under an accident or health plan for specific injuries or illnesses
- Payment must be figured without regard to any period of absence from work



# Moving Expenses

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- IRC Section 132(g):
  - Allows employer to reimburse employee
- IRC Section 217:
  - Allows individual to deduct certain expenses



# Moving Expenses

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- Not taxable to employee if they are:
  - paid under an Accountable Plan
  - meet specific tests under IRC 217



## IRC 217 Tests

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- Individual must be an employee who incurs the expenses
- Expenses must:
  - closely relate to starting work at new job location
  - be allowed under section 217
  - meet time and distance tests



# Moving Expenses – Travel Costs

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- Non-taxable travel costs:
  - Moving other members of household
  - Airfare, car
  - Lodging while travelling
  - Parking fees, tolls



# Moving Expenses: Goods & Personal

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- Non-taxable moving costs - household goods/personal effects:
  - Packing, crating, transporting
  - Shipping car(s)
  - Shipping pet(s)
  - Storage & insurance (30 consecutive days)





# Moving Expenses- Reimbursements

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- Don't include reimbursements in income if:
  - the reimbursed expenses qualify under IRC 217, and
  - they are paid in the same calendar year they are deducted



# Moving Expenses

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- Timing of taxability
- Employer's reporting on W-2



# Meal Allowances & Reimbursements

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- Meals while traveling
- Meals while not traveling
  - Meals with meetings or entertainment
  - De minimis meal allowances



# Meal Allowances & Reimbursements

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- Meals while traveling
  - Tax-exempt requirements:
    - Must be away from tax home overnight, or long enough to require substantial sleep or rest
    - No set number of hours or miles away
    - Substantiation required



# Meal Allowances & Reimbursements

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- Meals not away from home:
  - Meals with meetings
  - Meals with entertainment
  - De minimis meals



# Meal Allowances & Reimbursements

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- Meals with meetings or entertainment:
  - Tax-exempt if meal meets test:
    - “Directly Related” test, or
    - “Associated With” test



# Meal Allowances & Reimbursements

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- “Directly Related” Meals are tax-exempt:
  - business meetings
  - service club or professional meetings
    - Example: Rotary, Finance Officers Association, CPA



# Meal Allowances & Reimbursements

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- “Associated With” Test
  - Meals with clear business purpose
  - Substantial business discussion/negotiations directly before or after a meal





# Meal Allowances & Reimbursements

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- “Associated With” Meals are tax-exempt meals at:
  - conventions
  - conferences



# Meal Allowances & Reimbursements

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- De Minimis Meals are tax-exempt if meal is:
  - small in value and occasional
  - not provided routinely or often
  - provided so employee can work overtime



# Meal Allowances & Reimbursements

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- De minimis meal
  - Generally, must be consumed during overtime period
  - Not based on number of hours worked



# Meal Allowance & Reimbursements

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- Note: Meals consumed en route to daily business events are not exempt
  - Example: Breakfast and dinner while traveling to and from a daily convention or conference would not be exempt



## Meal Allowances & Reimbursements

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- If not staying at a hotel, there is no tax exempt meal reimbursement while traveling to and from event
- If everyone is responsible for their own arrangements during a lunch break, the reimbursement for lunch is fully taxable



# Employee's Car

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- Reimbursed business use is non-taxable if AT or BELOW Federal Mileage Rate



# Standard Mileage Rates

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- 2010 50 cents per mile
- 2011 51 cents per mile
- 2012 55.5 cents per mile
- 2013 56.5 cents per mile
- 2014 56 cents per mile
- 2015 57.5 cents per mile
- 2016 54 cents per mile
- 2017 53.5 cents per mile
- 2018 54.5 cents per mile



# Employer Provided Vehicles

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- Qualified non-personal use vehicle
  - by its design is unlikely to have personal use
  - use is tax-exempt





## Employer Provided Vehicles

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- Qualified non-personal use vehicles
  - Clearly marked police and fire vehicles
  - School buses
  - Unmarked law enforcement vehicles
  - Special purpose vehicles – snow plows, etc.
  - Vans and pickups must be modified to qualify



# Employer Provided Vehicles

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- Qualified non-personal use vehicles
  - Pickup with hydraulic lift attached
  - Pickup with removable tool chest
  - White Van



## Employer Provided Vehicles

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- See Publication 15-B for valuation rules on employer provided vehicles:
  - Cents per mile
  - Lease value
  - Commuting rule



# Employer Provided Vehicles

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## Lease Value Rule

### Exceptions

- If you first used commuting rule
- If you first used cents per mile rule, but auto no longer qualifies for cents per mile



# Employer Provided Vehicles

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- Commuting Rule
  - Commute valued at \$3/day
  - Requirements:
    - Employer must own or lease auto
    - Provided to employee for business use
    - Required for valid business reason
    - Written policy forbids personal use
    - Number of commuting days is recorded



# Employer Provided Vehicles

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Examples of de minimis use:

- Short personal detour
- Commuting once/month or less

See Pubs 15-B & 463 for required recordkeeping and reporting



## Question 1

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- When a County's Sheriff squad cars are no longer used in their active fleet, they are provided to the County jail administrators for commuting. The County would like to know if they can use the commuting rule to value the employees' personal use of the vehicles.



## Question 2

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- We have a policy that specifically prohibits an employee from using a county supplied cell phone for personal reasons and we police the cell phone bills for personal use. We discipline employees for violating this policy. Will personal use still be taxable?





## Question 3

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- If an employer gives a gift certificate for a Christmas turkey or an occasional theatre ticket, what facts and circumstances would allow the employee to exclude these gifts from taxable income?



## Recap – Helpful Resources

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- Pub 15-B Employer's Guide to Fringe Benefits
- Pub 5137 Fringe Benefit Guide
- Pub 463 Travel, Entertainment, Gift and Car Expenses
- Pub 535 Business Expenses
- Pub 521 Moving Expenses
- Pub 529 Miscellaneous Deductions
- Pub 969 Health Savings Accounts and Other Tax Favored Health Plans
- Download docs at [www.irs.gov/Forms-&-Pubs](http://www.irs.gov/Forms-&-Pubs)



## Useful Telephone Numbers

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- 1-827-829-5500 – TE/GE toll-free tax help
- 1-800-829-3676 – Forms & pubs order site
- 1-866-455-7438 – 1099 and W-2 assistance



# Thank You

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