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GASB & IRS & Other

by:

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Presentation Outline

- ▶ GASB
- ▶ Missouri Financial Reports
- ▶ New GFOA Best Practices
- ▶ Single Audit Update
- ▶ IRS



GASB Standards Update

Effective December 31, 2016:

- ▶ Statement 77—tax abatement disclosures
- ▶ Statement 78—certain multiple employer pension plans

Effective June 30, 2017:

- ▶ Statement 73—pensions not within the scope of 67/68 (generally)
- ▶ Statement 74—OPEB (plans)
- ▶ Statement 79—certain investment pools and participants
- ▶ Statement 80—blending requirements
- ▶ Statement 82—pension issues

GASB Standards Update

Effective December 31, 2017:

- ▶ Statement 81—irrevocable split-interest agreements

Effective June 30, 2018:

- ▶ Statement 75—OPEB (employers)
- ▶ Statement 85—omnibus
- ▶ Statement 86—debt extinguishment issues

GASB Standards Update

Effective June 30, 2019:

- ▶ Statement 83—certain asset retirement obligations

Effective December 31, 2019:

- ▶ Statement 84—fiduciary activities

Effective December 31, 2020:

- ▶ Statement 87—leases

Other Postemployment Benefits

- ▶ **Statements No. 74 and No. 75.:**
 - Effective for periods beginning after June 15, 2016 (plans) and June 15, 2017 (employers)
 - Employer's liability to employees for OPEB measured as of a date no earlier than the end of the employer's prior fiscal year and no later than the employer's current fiscal year –
 - Based on an actuarial valuation obtained at least biennially no more than 30 months and 1 day earlier than the employer's most recent fiscal year-end
 - Alternative measurement method may be applied if fewer than 100 employees (active and inactive) are provided benefits through plan as of the beginning of the measurement period – Generally, same simplifications to assumptions can be used as were permitted by Statement 45

Other Postemployment Benefits

- ▶ **Statements No. 74 and No. 75.:**
 - Three broad steps:
 - Project benefit payments
 - Discount projected benefit payments to actuarial present value
 - Attribute actuarial present value to periods
 - Methods and assumptions:
 - Generally, assumptions in conformity with Actuarial Standards of Practice
 - Disclosures and RSI:
 - Similar to those required for pensions
 - Disclosure of effect on net/total OPEB liability trend rate $\pm 1\%$
 - Single and agent employers: 10-year RSI schedules for changes, net OPEB liability, ratios, and actuarially determined contributions

Tax Abatements

- ▶ Statement No. 77.:
 - Effective for periods beginning after December 15, 2015
 - Does not include all transactions that reduce tax revenues
 - Emphasis is on the substance of the arrangement meeting the definition, not on its name or form
 - Would apply only to arrangements meeting this definition: A reduction in tax revenues that results from an agreement between one or more governments and an individual or entity in which (a) one or more governments promise to forgo tax revenues to which they are otherwise entitled and (b) the individual or entity promises to take a specific action after the agreement has been entered into that contributes to economic development or otherwise benefits the governments or the citizens of those governments.

TIF Example1

- ▶ IG 2016–1, Question 4.77
- ▶ Government uses TIF to encourage economic development:
 - Bonds issued by government to finance infrastructure in specific area
 - Baseline for sales tax revenues for the area, including proposed development, is established prior to the start of the project. Additional sales tax revenues above baseline are set aside for payment of the bonds
 - Disclose under 77? NO

TIF Example 2

- ▶ IG 2017–1, Question 4.40
- ▶ Government enters into agreement with developer to stimulate economic growth:
 - Developer will construct building
 - Baseline for property tax revenues for the specific area will be established prior to the start of the project
 - Developer will receive amount from additional property tax revenues above baseline, based on certain costs incurred by the developer related only to the developer's building
 - Disclose under 77? YES

Tax Abatement Disclosures

Brief Descriptive Information

- Name of program
- Purpose of program
- Tax being abated #
- Authority to abate taxes
- Eligibility criteria
- Abatement mechanism
- Recapture provisions
- Types of recipient commitments
- Dollar amount of taxes abated #
- Amounts received or receivable from other governments associated with abated taxes #
- Other commitments by the government #
- Quantitative threshold for individual disclosure #
- Information omitted due to legal prohibitions #

– If other governments abate taxes, included the name of the other government and these items

GASB Statement No. 80 – Blending Requirements for Certain Component Units

- Effective for fiscal years beginning after June 15, 2016.
- A component unit should be included in the reporting entity financial statements using blending only if:
 - The component unit is organized as a not-for-profit corporation in which the primary government is the sole corporate member and,
 - The component unit is included in the financial reporting entity pursuant to provisions of para. 21–37 of GASB statement 14.
 - Primarily healthcare industry related.

GASB Statement No. 82 – Pension Issues

- Effective for fiscal years beginning after June 15, 2016, generally.
- Related to implementation of GASB 67/68.
- Modified definition of covered payroll:
 - Return use of covered payroll, defined as the payroll on which contributions to a pension plan are based, for the RSI schedules.
 - Vs. GASB 67/68 defined covered payroll as total payroll of employees that are provided with pensions.

GASB Statement No. 83 – Certain Retirement Obligations

- Effective for fiscal years beginning after June 15, 2018. Earlier application is encouraged.
- The Board issued Statement 83 to establish accounting and financial reporting standards for legal obligations to retire certain capital assets, such as decommissioning nuclear power plants and removing sewage treatment plants.
- Statement 18 addressed only municipal landfills but governments have retirement obligations for other types of capital assets.
- Diversity exists in practice.

GASB Statement No. 84 – Fiduciary Activities

- Effective for fiscal years beginning after December 15, 2018. Earlier application is encouraged.
- New definitions for pension trust funds.
- Custodial funds would report fiduciary activities for which there is no trust agreement. (No more Agency funds.)

GASB Statement No. 85 – Omnibus

- Effective for fiscal years beginning after June 15, 2017. May be implemented by topic.
- Component unit presentation–Requirements for blending component units for single–column business–type activities.
- Government combinations–Treatment of goodwill and negative goodwill.
- How to classify real estate held for both operations and investment purpose by insurance entities.
- Measuring certain money market investments and participating interest–earning investment contracts at amortized cost.

GASB Statement No. 85 – Omnibus (cont.)

- Timing of measurement of pension and OPEB liabilities and related expenditures in financial statements prepared using the current financial resources measurement focus—based on reporting period (rather than measurement period).
- OPEB—various including:
 - presentation of covered payroll for required supplementary information. Covered payroll maybe based on pay otherwise, if not based on pay—plans present no measure.
 - Simplification of alternative measurement method

GASB Statement No. 86 – Certain Debt Extinguishment Issues

- Effective for fiscal years beginning after June 15, 2017. Earlier application is encouraged.
- Establishes the debt to be considered defeased in substance (or removed from the balance sheet) when a government places cash and other monetary assets acquired with only existing resources in an irrevocable trust to extinguish the debt.
- Requires any remaining prepaid insurance related to the debt to be included in the net carrying amount of that debt.
- Requires additional disclosures.

GASB Statement No. 87 – Leases

- Effective for fiscal years beginning after December 15, 2019. Earlier application is encouraged.
- Short term leases – from commencement of the lease term, has a maximum possible term under the lease contract of 12 months, including options to extend, regardless of their probability of being exercised.
- Otherwise – Lessee accounting –
 - Recognize a lease liability and lease asset at the commencement of the lease term, generally. The lease liability is the present value of payments, less incentives, plus payments at or before the lease, and plus direct costs.
 - Lessee should amortize the lease asset in a systematic and rational manner of the shorter of the lease term or the useful life of the asset.
 - Provide note disclosures.

Other GASB Statements

- GASB 73–certain pension plans not administered by trusts, not within the scope of GASB 68.
- GASB 76–heirarch of GAAP.
- GASB 78–certain pension through federally sponsored or private multiple–employer pensions.
- GASB 79–certain external investment pools and pool participants. External investment pool needs to meet various requirements in order to report investments at amortized cost.
- GASB 81 –irrevocable split–interest agreements, usually applies to public colleges and healthcare entities.

GASB 34 – Reexamination

- ▶ **First Due Process Document—December 2016**
 - Governmental funds. What should they convey?
 - Role of cash flows statements in governmental funds and potentially government-wide statements.
 - Budgetary comparisons. Appropriate method of communication, basic statements or RSI and which budget variances, if any should be presented
 - Fiduciary Funds. Determine if these should be presented with the financial statements.
 - MD&A. Consider eliminating boilerplate and enhance analysis.

GASB 34 – Reexamination

- ▶ Funds considerations:
 - Near-term financial resources – 60–90 day period.
 - Short-term financial resources – one year.
 - Long-term financial resources – all assets and liabilities except capital assets and capital related debt.

GASB 34 – Reexamination

Near-term financial resources – 60–90 day period.

- Similar to modified cash/resources expected to be converted to cash.
- No prepaid or inventory.
- Receivable normally due to convert to cash within the near term.
- Payables at period end normally due within near term. Principal on debt when due.
- No cash flow statement.

GASB 34 – Reexamination

Short-term financial resources – one year period.

- Include prepaid or inventory that will be consumed in the next operating cycle.
- Receivable normally due to convert to cash within the one year operating cycle.
- Payables at period end normally due within the next operating cycle.
- Maybe cash flow statement.

Other New Stuff

Per State Auditor's Office website:

- ▶ Effective August 28, 2017, under Section 105.145, RSMo, the State Auditor's Office must notify the Missouri Department of Revenue if a political subdivision fails to file a timely financial statement. Failure to timely file a financial statement may subject the political subdivision to a fine of \$500 per day.
- ▶ The State Auditor's Office provides a financial report form, addendum form, and municipal court certification form for use by local government officials. Although audited financial reports are not required by [Section 105.145, RSMo](#), or [15 CSR 40-3.030PDF Document](#), by August 28, 2018, [Section 67.287, RSMo](#), requires any city, town, or village located in any county with a charter form of government and with more than nine hundred fifty thousand inhabitants to produce an annual audit by a certified public accountant that also includes additional requirements.

New GFOA Best Practices

GFOA has many (190+) Best Practices/Advisories

<http://www.gfoa.org/best-practices>

1. Primary Market Disclosure recommends that issuers establish clear policies and procedures for compiling information before issuing debt. Issuers are to carefully consider information that may be material to investors when compiling primary market information.
2. Post-Issuance Policies and Procedures recommends issuers of bonds or other debt obligations develop and adopt formal, written post-issuance compliance policies and procedures to assist in meeting compliance requirements and in preventing, identifying, and correcting possible violations that might occur during the term that bonds are outstanding.
3. Electronic Vendor Fraud Advisory recommends that governments put safeguards and internal controls in place to mitigate the risk of fraudulent vendor payment activity.

New GFOA Best Practices (cont.)

4. *Investment Policies for Defined Benefit Plans* recommends that defined benefit plans establish and adhere to a formal investment policy to regulate and monitor the system's investment program.

5. *Investment Policies for Tax-Deferred Retirement Savings Plans* recommends that the governing bodies of the tax deferred retirement savings plans establish and adhere to a formal investment policy governing the selection and monitoring of investments made available by the plan.

6. *Economic Development Incentive Policies* recommends that jurisdictions create a policy on the appropriate parameters for use of economic development incentives. An economic development incentive policy needs to be specific enough to establish clear boundaries but not overly restrictive in order to allow for flexibility and discretion to ensure that the policy serves the best interest of a jurisdiction.

7. *Negotiating Economic Development Agreements* recommends governments develop and pursue a clear negotiating strategy when working with thirdparty developers on an economic development project and that the finance department/officer should always be represented on the negotiating team.

Single Audit Helpful Hints:

1. AICPA Governmental Audit Quality Center Auditee Practice Aids 2017 Updates:

a. The Schedule of Expenditures of Federal Awards –

http://www.aicpa.org/InterestAreas/GovernmentalAuditQuality/Resources/SingleAudit/UniformGuidanceforFederalRewards/DownloadableDocuments/Auditee_Practice_Aids_SEFA_Uniform_Guidance.pdf

b. Assistance with Corrective Action Plans (CAPs) and Summary Schedule of Prior Audit Findings (SSPAFs)

<http://www.aicpa.org/InterestAreas/GovernmentalAuditQuality/Resources/AuditeeResourceCenter/DownloadableDocuments/PracticeIssueNotedWithAuditeeCAPandSSPAF.pdf>

2. CFDA numbers – www.cfda.gov



- ▶ **Public Employer's Toolkit** – <https://www.irs.gov/government-entities/federal-state-local-governments/public-employers-toolkit>
- ▶ If you are a new employer, or new to dealing with federal employment tax, the first place to go for information is IRS [Publication 15](#) *Employer's Tax Guide* (Circular E). This publication is revised each year and contains the basic information employers need to be able to collect adequate information so they can determine and pay their and their employees' portion of employment tax liability, file correct tax returns, and withhold federal taxes, where necessary.
- ▶ You may also want to consult the following Publications that include information specific to government entities:
 - ▶ [Publication 5138](#), *Quick Reference Guide for Public Employers*
 - ▶ [Publication 963](#), *Federal-State Reference Guide*
 - ▶ [Publication 15-A](#), *Employer's Supplemental Tax Guide*
 - ▶ [Publication 15-B](#), *Employer's Guide to Fringe Benefits*
 - ▶ [Publication 5137](#), *Fringe Benefit Guide-Office of Federal State and Local Governments (see attached)*
 - ▶ [Publication 1281](#), *Backup Withholding for Missing and Incorrect Names/TINs*



January 2014

Fringe Benefit Guide

Office of Federal, State and Local Governments

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2 Reporting and Withholding on Fringe Benefits

In general, taxable fringe benefits are subject to withholding when they are made available. The employer may elect to treat taxable fringe benefits as paid in a pay period, or on a quarterly, semiannual, or annual basis, but no less frequently than annually.

IRS Ann. 85-113

Alternative Rule for Income Tax Withholding

The employer may elect to add taxable fringe benefits to employee regular wages and withhold on the total, or may withhold on the benefit at the supplemental wage flat rate of 25%. *Reg. §31.3402(g)-1; Reg. §31.3501(a)-1T*

Special Accounting Period

Under a special rule, benefits provided in November and December, or a shorter period in the last two months of the year, may be treated as paid in the following year. Only the value of benefits actually provided during the last two months may be treated as paid in the subsequent year. You do not have to notify the IRS that you are using this special accounting rule. *IRS Ann. 85-113; Reg. 1.61-21(b)(7)*

An employer may use this rule for some fringe benefits and not others. The special accounting period need not be the same for each fringe benefit. However, if an employer uses the special accounting period rule for a particular benefit, the rule must be used for that benefit for all employees who receive it.

Employer's Election Not To Withhold Income Tax on Vehicle Use

In general, an employer does not have a choice whether to withhold on taxable fringe benefits. However, an employer may elect not to withhold income taxes on the taxable use of an employer's vehicle that is includible in wages if the employer: (1) notifies the employee, and (2) includes the benefit in the employee's wages on the Form W-2 and withholds social security and Medicare tax. See Section 14. IRC §3402(s)(1)

Note: This election is available only for employer-provided vehicles.

Nontaxable Benefits Provided Under an Accountable Plan

Under an accountable plan, allowances or reimbursements paid to employees for job-related expenses are excluded from wages and are not subject to withholding. An allowance or reimbursement policy (not necessarily a written plan) that includes the following requirements is considered an accountable plan:

- There is a business connection to the expenditure.
- There is adequate accounting by the recipient within a reasonable period of time.
- Excess reimbursements or advances are returned within a reasonable period of time. *IRC §62(c); Reg. §1.62(c)(2)-2(c)(2)*

Business Connection

“Business connection” means that the expense must be a deductible business expense incurred in connection with services performed as an employee. If not reimbursed by the employer, the expense would qualify as a deductible expense by the employee on the employee’s 1040 income tax return. *Reg. §1.62-2(d)*

Wage Recharacterization

Generally, wage recharacterization occurs when the employer structures compensation so that the employee receives the same or a substantially similar amount whether or not the employee has incurred deductible business expenses related to the employer’s business. If an employer reduces wages by a designated amount for expenses, but all employees receive the same amount as reimbursement, regardless of whether expenses are incurred or are expected to be incurred, this is wage recharacterization. If wage recharacterization is present, the accountable plan rules have not been met, even if the actual expenses are later substantiated. In this case, all amounts paid are taxable as wages. For more information, see [Revenue Ruling 2012-25](#).

Example: A government entity employs workers who incur expenses for travel. The employer treats a portion of the employees’ hourly compensation as a nontaxable per diem allowance for travel expenses. If no expenses are incurred, the same total is paid to each employee, with all amounts treated as wages. The same amount is paid to the employee in each case. This is not an accountable plan, because the amount of the reimbursements is not based on actual expenses incurred and substantiated.
Reg. 1.62-2(d)(3)(i) RR 2012-25

Adequate Accounting

The employee must verify the date, time, place, amount, and business purpose of expenses. Receipts are required unless the reimbursement is made under a per diem plan. *Reg. §1.62-2(e); Reg. §1.274-5(b)(2)*

4 De Minimis Fringe Benefits

De minimis fringe benefits include any property or service, provided by an employer for an employee, the value of which is so small in relation to the frequency with which it is provided, that accounting for it is unreasonable or administratively impracticable. The value of the benefit is determined by the frequency it is provided to each individual employee, or, if this is not administratively practical, by the frequency provided by that employer to the workforce as a whole. *IRC §132(e); Reg. §1.132-6(b)*

Example 1: An employer provides daily snacks valued at one dollar to an employee. Although small in amount, the benefit is provided on a regular basis and is, therefore, taxable as wages.

Example 2: An employer provides a meal daily to one employee, but not to any other employee. The benefit is “frequent” with respect to that one employee, and is therefore not de minimis, even though the benefit may be “infrequent” with respect to the entire workforce. *Reg. §1.132-6(b)(2)*

The law does not specify a value threshold for benefits to qualify as de minimis. The determination will always depend on facts and circumstances. The IRS has given advice at least once, in 2001, that a benefit valued at \$100 did not qualify as de minimis. However, this technical advice addresses a specific situation and cannot be relied upon in addressing another specific situation. (*ILM 200108042*)

Definition of Employee for De Minimis Fringe Benefits

Any individual receiving a de minimis fringe benefit is treated as an employee for purposes of applying these rules. *Reg. §1.132-1(b)(4)*

Examples of Excludable De Minimis Fringe Benefits

All of the following may be excludable if they are occasional or infrequent, **not routine**:

- Personal use of photocopier (no more than 15% of total use)
- Group meals, employee picnics
- Theater or sporting event tickets
- Occasional coffee, doughnuts, or soft drinks
- Flowers or fruit for special circumstances
- Local telephone calls
- Traditional birthday or holiday gifts (not cash) with a low FMV
- Commuting use of employer's car if no more than once per month
- Employer-provided local transportation
- Personal use of cell phone provided by employer primarily for a business purpose

6 Qualified Employee Discounts

An employee discount allows an employee to obtain property or services from his or her employer at a price below that available to the general public. When these amenities are offered to the public for a fee and the same amenities are offered to an employee at a reduced price, the possibility of a taxable benefit to the employee exists. However, the benefit is excludable if it meets the requirements of a qualified employee discount.

For the benefit to be excludable, the property or service must be offered to the public in the ordinary course of business.

An employee, for this purpose, includes individuals that qualify for no-additional-cost fringe benefits, discussed in the previous section.

An excludable “qualified employee discount” generally cannot exceed:

- For merchandise or other property, the employer’s gross profit percentage times the price charged to the public for the property. *IRC §132(c)(1)(A)*
- For services, no more than 20% of the price charged to the general public for the service. For this purpose, the price charged to the general public at the time of the employee’s purchase is controlling. *IRC §132(c)(1)(B); Reg. §1.132-3(b)(2)(iii)*

The exclusion for a qualified employee discount applies whether the property or service is provided at no charge (in which case, only a portion will be excludable as a qualified employee discount) or at a reduced price. The exclusion also applies if the benefit is provided through a partial or total cash rebate of an amount paid for the property or service. *Reg. §1.132-3(a)(4); Reg. §1.132-3(e)*

The exclusion is not available for discounts on real property or personal property of a kind commonly held for investment. *Reg. §1.132-3(a)(2)(ii)*

Unlike no-additional-cost services, discussed in the previous section, the exclusion for a qualified employee discount does not apply to property or services provided by another employer under a reciprocal agreement. *Reg. §1.132-3(a)(3)*

You cannot exclude from the wages of a highly compensated employee any part of the value of a discount that is not available on the same terms to all of your employees, or a group of employees defined under a reasonable classification that does not favor highly compensated employees. *Reg. §1.132-3(a)(6)*

For more information, see [Publication 15-B](#).

13 Reimbursements for Use of Employee-Owned Vehicles

Government employees often use their personal automobiles for official use. An employee can deduct the costs of operating a vehicle for work as an employee, using either actual expenses or a standard mileage rate. If an employer reimburses these expenses under an accountable plan, they are not deductible by the employee, but may be excludable from the employee's income. If reimbursements are not consistent with accountable plan rules, or exceed the allowable amounts, they may be taxable as wages. See [Publication 463](#) for more information on vehicle expenses.

Standard Federal Mileage Rate

In most situations, an employer can choose to reimburse the employees through a standard mileage rate allowance in lieu of actual automobile expenses, and meet the accountable plan rules. A standard mileage rate is considered to cover all expenses of operating a vehicle, including insurance, maintenance, tires, oil, etc. It does not include parking or toll charges.

Mileage-rate reimbursements for allowable business travel are excludable from the wages of the employee, if equal to or less than the standard Federal mileage rate and the employee accounts for the business miles driven. *Reg §1.274(g)(2)(iii); Reg. § 1.274-5*

As of January 1, 2014, the standard mileage rate is 56 cents per mile. The rate for the current year can be found on www.irs.gov. *Notice 2013-80*

Reimbursements for **non-business travel, including commuting**, are always taxable even if paid at or below the Federal mileage rate and are to be included in regular wages and subject to all income and employment taxes. (But see De Minimis Nontaxable Personal Use, later.)

Personal commuting between the residence and the principal place of business is considered non-business travel or personal use. See [section 10](#) for a discussion of commuting.

Employer Reimbursements in Excess of Federal Mileage Rate

Reimbursements in excess of the Federal mileage rate are taxable as regular wages to the employee. When there is an excess reimbursement, both the nontaxable and taxable amounts are reported on Form W-2 as follows:

- Amounts up to Federal mileage rate: box 12, code L
- Amounts in excess of Federal mileage rate (taxable): boxes 1, 3, and 5 (withholding reported in boxes 2, 4 and 6)

14 Employer-Provided Vehicles

If an employer provides a vehicle that is used by an employee exclusively for business purposes and the substantiation requirements are met, there are no tax consequences or reporting required for that use. The use is treated as a working condition fringe benefit. Business use does not include commuting. Employees should maintain records to substantiate that all vehicle use was for business. *Reg. § 1.132-6(e)(2)*

Employer Vehicle Used for Both Business and Personal Purposes

If an employer-provided vehicle is used for both business and personal purposes, substantiated business use is not taxable to the employee (see Substantiation Requirements, below). Personal use is taxable to the employee as wages. The employer can choose to include all use as wages; in this case, the employee may reimburse the employer for personal use rather than having it treated as wages. *Reg. § 1.61-21(c)(2)*

What is Personal Use?

The following are examples of taxable personal use of an employer-provided vehicle:

- Commuting between residence and work station
- Vacation or weekend use
- Use by spouse or dependents

Example: An employee goes into his office on the weekend. This is personal commuting, regardless of whether it is required by the employer. Any reimbursement for the transportation is taxable wages. *Reg. § 1.162-2(e)*

De Minimis Nontaxable Personal Use

An exception to the limitation on personal use applies for use that qualifies as de minimis. De minimis benefits in general are discussed in [section 4](#). Examples of excludable de minimis use of an employer-provided vehicle that can be excludable include:

Small personal detour while on business, such as driving to lunch while out of the office on business.

Infrequent (not more than one day per month) commuting in employer vehicle. This does not mean that an employee can receive excludable reimbursements for commuting 12 days a year. The rule is available to cover infrequent, occasional situations.

Reg. § 1.132-6(e)(2); Reg. § 1.132-6(d)(3)

Example: An employee uses a motor pool vehicle for a business meeting. The employer requires that motor pool vehicles be returned at the end of the business day, but the employee is delayed and the motor pool is closed when the employee arrives back at the office. The employee takes the vehicle home and returns it the next morning.

Assuming that this is an infrequent occurrence for that employee (generally happening no more than once a month) the commuting value of the trip is a nontaxable de minimis fringe benefit. If this is a frequent or routine occurrence, the commuting is taxable to the employee.

Substantiation Requirements

Under §280A, vehicles are considered “listed property” (discussed in [section 15](#)) and therefore, in order to support an exclusion or deduction, separate records for business and personal mileage are required. *IRC 274(d)*

If records documenting business and personal mileage separately **are not provided** by the employee, the value of **all** use of the automobile is wages to the employee, and the employee can then take itemized deductions for any substantiated business use on Form 1040, Schedule A. *Reg. §1.132-5(b)*

If records documenting business and personal use separately **are provided by** the employee to the employer, **only** the personal use of the automobile is wages to the employee.

Exceptions to the recordkeeping requirements apply in certain situations discussed later in this section.

Valuation of Personal Use of Employer-Provided Vehicle

Personal use of an employer’s vehicle that does not qualify for an exclusion creates taxable wages to the employee. The following procedures should be used to determine how much to include in wages on the employee’s Form W-2.

Under the general valuation rule for fringe benefits, the amount to include in income is fair market value. This fair market value is generally the lease value of the vehicle, but other rules may apply in certain circumstances. *Reg. §1.162-2(d); Reg. §1.132-5(b)*

Public Safety Officer

A public safety officer is an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as described above, or a firefighter, chaplain, or member of a rescue squad or ambulance crew. *TD 9483; §1.274-5*

Unmarked Law Enforcement Vehicles

Unmarked law enforcement vehicles are qualified nonpersonal use vehicles only if the following apply:

- The employer must officially authorize personal use.
- Personal use must be incident to use for law-enforcement purposes; i.e., no vacation or recreational use.
- The employer must be a governmental unit responsible for prevention or investigation of crime.
- The vehicle must be used by a full-time **law enforcement** officer authorized to carry firearms, execute warrants, and make arrests. The officer must regularly carry firearms, except when it is not possible to do so because of the requirements of undercover work. *Reg. § 1.274-5(k)(6)*

Qualified Specialized Utility Repair Truck

The following tests must be met for a specialized utility repair truck to qualify as a qualified nonpersonal use vehicle:

- The truck (not a van or pickup) is designed to carry tools, equipment, etc.
- The truck has permanent interior construction, including shelves and racks.
- The employer must require the employee to commute for emergency call-outs to restore or maintain utility services (i.e., gas, water, and sewer). *Reg. § 1.274-5T(k)(5)*

Vans and pickup trucks do not qualify as qualified non-personal use vehicles unless specifically modified to be unlikely to allow more than minimal personal use. For a van or pickup truck with a loaded gross vehicle weight of 14,000 pounds or less, the vehicle must be clearly marked with permanently affixed decals, special painting, or other advertising associated with the trade, business, or function.

Vans must have a seat for the driver only (or the driver and one other person) and either of the following:

- Permanent shelving that fills most of the cargo area, or
- An open cargo area, and the van always carries merchandise, material, or equipment used in your trade, business, or function. *RR 86-97PLR 200236022*

Pickup trucks must be equipped with **at least one** of the following items:

- A hydraulic lift gate
- Permanent tanks or drums
- Permanent side boards or panels that materially raise the level of the sides of the truck bed

Otherwise, they must be used primarily to transport a particular type of load (other than over the public highways) in a construction, manufacturing, processing, arming, mining, drilling, timbering, or other similar operation for which it was specially designed or significantly modified.

Safe Harbor Substantiation Rules for Vehicles

If certain conditions are met, a safe harbor rule relieves employees of the requirement to keep detailed records of employee use of vehicles. How the safe harbor rule applies depends on whether the vehicles are used for any personal purposes, or for vehicles with no personal use other than commuting. *Reg. § 1.274-6T(a)(1)*

Employees using employer vehicles are **not** required to keep detailed records of vehicle use if all of the tests below are met:

For vehicles not used for personal purposes:

- The vehicle is owned or leased by the employer and is provided to the employee for use in the employer's business
- When not in use, the vehicle is kept on employer's premises (i.e., motor pool cars)
- No employee using the vehicle lives at the employer's business premises
- The employer has a written policy prohibiting personal use, except *de minimis* use (such as driving to lunch while away from the office)
- The employer reasonably believes the vehicle is not used for any personal use (other than *de minimis*) *Reg. §1.132-(5)(e) and (f); Reg. § 1.274-6T(a)(2)*

For vehicles not used for personal purposes other than commuting:

- The vehicle is owned or leased by the employer and is provided for use in the employer's business
- For bona fide noncompensatory reasons, the employer requires the employee to commute to and/or from work in the vehicle
- The employer has established a written policy prohibiting personal use other than commuting and *de minimis* use
- The employer reasonably believes that, except for commuting and *de minimis* use, no individual uses the vehicle for personal purposes
- The employee is not a control employee (for the definition, see "Commuting Rule Not Available for Control Employee" earlier)

- The employer accounts for the commuting use by including the commuting value in the employee's wages. *Reg. § 1.274-6T(a)(3)*

Written Policy Statements

The employer must maintain a written policy statement that implements a policy restricting personal use of employer-provided vehicles. The Conference Report to P.L. 99-44, Contemporaneous Recordkeeping Requirements Repeal Act, states that a resolution of a city council, or a provision of state law, or the state constitution qualifies as a written policy statement for the safe harbor provisions.

Employer Monitoring Required

Although detailed recordkeeping is not required, the employer must have some way to prove that the vehicles are being used in accordance with the rules. For example, the employer may use internal controls such as requiring employees using motor pools to sign vehicles out, and signed statements by the employees agreeing to no personal use, or (if applicable) no personal use other than commuting.

because all workers receive an amount as a mileage reimbursement regardless of whether they incur (or are reasonably expected to incur) mileage expenses. The arrangement fails to satisfy the business connection requirement of Regulation §1.62-2(d), and does not meet the accountable plan rules.

Work Clothes and Uniform Allowances and Reimbursements

Clothing or uniforms are excluded from wages of an employee if they are:

- specifically required as a condition of employment; and
- are not worn or adaptable to general usage as ordinary clothing.

The accountable plan rules must be met for reimbursements or clothing allowances. *IRC §162; Reg. §1.62-2(c)(1)*

Note: If the clothing qualifies as excludable, then reimbursements for the cleaning costs are also excludable.

Periodic allowance payments made to employees for the purchase and maintenance of specific articles of *employer-required* uniforms are not taxable to the employees to the extent that the allowances are used to pay for uniforms that are not adaptable to general use, and are not worn for general use, and the employees substantiate the expenses. If the employer does not require substantiation, the allowance is taxable as wages and subject to withholding when paid.

Example: An agency is required to reimburse certain employees for shoes under a union contract. The shoes are not safety shoes. Because the shoes are adaptable for general wear, the reimbursements are included as wages to the employees even if the employer is required to make the payment.

Safety Equipment

Safety equipment is excludable from employee wages if the equipment is provided to help the employee to perform his/her job in a safer environment. To be excludable, it is not necessary that the equipment be required by the employer. However, the accountable plan rules must be met for reimbursements for safety equipment. *IRC § 162; Reg. §1.62-2(c)(1)*

Common examples include a hardhat, an anti-glare screen for computer, or safety shoes.

Example: A government entity pays employees on an annual basis for part of the cost of safety equipment not required by employer. The payments may be excludable even though the safety equipment is not required by the employer. If the equipment helps the employee perform his/her job in a safer environment, it may qualify as an employee business expense. If the expenses are substantiated, the reimbursement is excludable for the employee.

16 Awards and Prizes

Except for the three situations noted below, prizes or awards given to employees are taxable. Regardless of the cost of an award or its FMV, the following awards are **always** taxable as wages to an employee:

- Cash or cash equivalent awards, such as savings bonds or gift certificates
- Recognition awards, cash or non-cash, for job performance, unless they are qualifying *de minimis* fringe benefits
- Non-cash prizes (unless *de minimis*) won by employees from random drawings at employer sponsored events
- Awards for performance, such as outstanding customer service, employee of the month, or highest productivity
- Achievement awards, cash or non-cash, that do not meet specific qualified plan award rules, discussed below
- Awards for length of service or safety achievement that do not meet specific requirements, discussed below *Reg. §1.274-2(c)(4); . §1.274-2(c)(5)*

Cash awards to employees are always taxable. Generally, the value of an award or prize given by an employer is taxable to an employee as wages, included on Form W-2, and subject to Federal income tax withholding, social security and Medicare.
IRC 74; IRC 3121(a)(20)

If the employer pays the employee's share of taxes on an award, the amount of taxes paid are additional wages to the employee (except for agricultural and domestic services) and are subject to all payroll taxes, as discussed in the previous section. For information on calculating the tax on employee taxes paid by the employer, see [Publication 15-A](#).
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Excludable Awards

There are three types of non-cash awards that may be excluded from income (subject to dollar limitations, discussed later). Each category has specific requirements that have to be met in order to be excludable. These categories are:

1. Certain employee achievement awards
2. Certain prizes or awards transferred to charities
3. *De minimis* awards and prizes

Test

1. If a bat and a baseball cost \$1.10 together, and the bat costs \$1.00 more than the ball, how much does the ball cost?
2. In a lake, there is a patch of lily pads. Every day the patch doubles in size. If it takes 48 days for the patch to cover the entire lake, how long would it take for the patch to cover half?

Answer

1. If a bat \$1.05 and a baseball cost \$.05 total \$1.10
2. 47 days



"It's safe to come out - the auditors have gone."

Questions and Discussion

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