

Employees' Non-Taxable Fringe Benefits – Seven Mistakes Made Most Often

N By Greta Hicks, CPA | Column Editor

on-taxable fringe benefits are not a part of wages, and for easy W-2 and income tax preparation, they deserve a separate account on the general ledger. Two of the newest identified fringe benefits are cell phone and local lodging.

Cell phones provided to employees will be treated as a non-taxable working condition fringe benefit or *de minimis* fringe benefit. As such, the value of the cell phone use for personal versus business is not included as taxable wages to employees, but the cost of the cell phone is fully deductible by the employer. See Notice 2011-72.

Typically to be deductible, lodging needed to be away from home. The Internal Revenue Service (IRS) released their final regulations §1.162-32 and made the announcement in T.D. 9696, IRB 2014-43 that under certain conditions, local lodging is treated as a tax-free fringe benefit if ALL conditions are met.

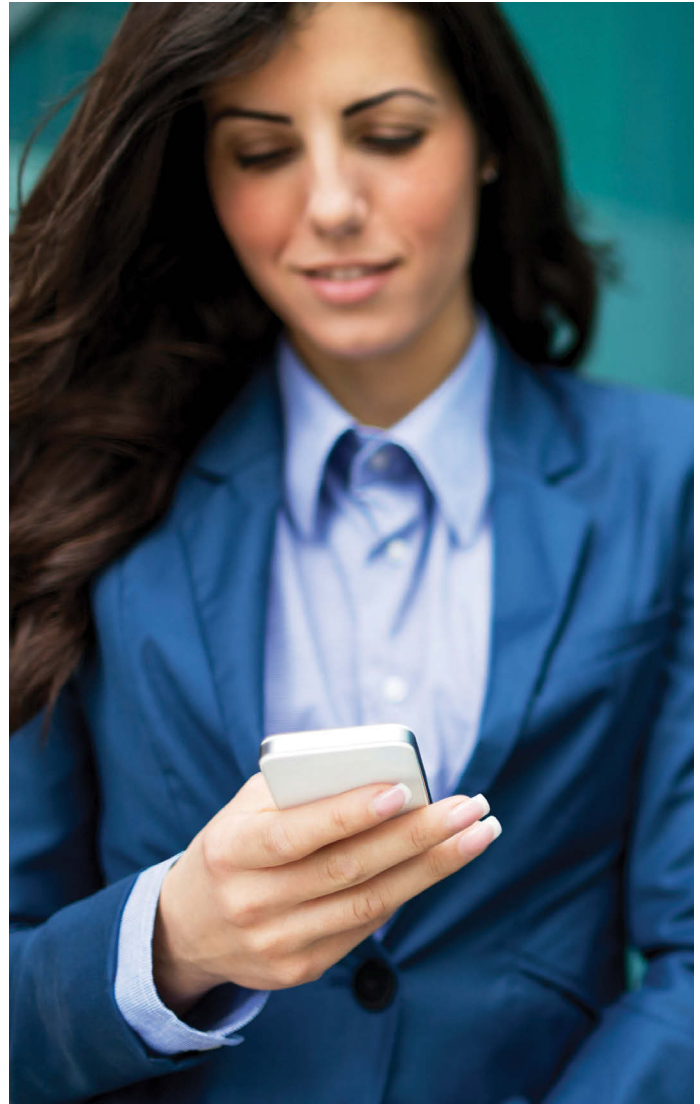
- The lodging is necessary for the individual to participate fully in or be available for a bona fide business meeting, conference, training activity or other business function.
- The lodging is for a period that does not exceed five calendar days and does not recur more frequently than once per calendar quarter.
- If the individual is an employee, the employee's employer requires the employee to remain at the activity or function overnight.

Please see "Local Lodging Deductible ... Maybe" in the Tax Topics section of the January/February 2015 issue of *Today's CPA* for more information.

Seven Mistakes Made Most Often

No. 1 Mistake. Often missed employee fringe benefits include 100 percent deductible meals and food items furnished for employees. Flag these items to be 100 percent deductible meals for employees, NOT 50 percent deductible meals and entertainment provided to customers or prospective customers.

- On-premises meals are tax free to employees under Code Section 119. Examples include coffee, beverages, donuts, etc.
- An employer-operated eating facility is a *de minimis* fringe if it is located on or near the employer's business premises and if its revenue normally equals or exceeds its direct operating costs. (Note: Watch for change! In an attempt to do away with the meals provided for employees in Silicon Valley, the IRS is doing a study. If the IRS is successful in Silicon Valley, the decision will affect employees in other industries.)
- Food or beverage expenses of crews of certain drilling rigs and certain commercial vessels, but not fishing vessels.
- Fruit, cookie or gift baskets provided to employees on account of illness, outstanding performance or family crisis. Section 274(e)(6)
- Holiday gifts – do not include value of gift: turkey, ham or other



item of nominal value at Christmas or other holidays, in wages.

No. 2 Mistake. Note: If cash, a gift certificate or another similar item, include the value of that gift as extra salary or wages regardless of the amount involved.

- Occasional cocktail parties, holiday parties, group meals or picnics for employees and their guests. No customers are allowed!
- Lunch ordered in for employees during a staff meeting.
- Supper or supper money provided occasionally so that the employee can work overtime.
- Employee, stockholder, etc., business meetings – expenses incurred by a taxpayer that are directly related to business meetings of his/her employees, stockholders, agents or directors. Section 274(e)(5)

- Meetings of business leagues, etc. – expenses directly related and necessary to attendance at a business meeting or convention of any organization described in Section 501(c)(6) (relating to business leagues, chambers of commerce, real estate boards and boards of trade) and exempt from taxation under Section 501(a).

No. 3 Mistake. Note: Meals as a part of moving expenses are no longer deductible; therefore, if paid by the employer, they are taxable as wages to the employee.

Other awards and prizes are taxable wages.

No. 4 Mistake. Bonuses, prizes or awards received for outstanding work should be shown in wages. These include prizes, such as vacation trips for meeting sales goals. If the prize or award received is goods or services, include the fair market value of the goods or services in wages.

Vehicles

Companies, especially small businesses, most commonly treat personal use of company autos and business use of personal vehicles incorrectly.

No. 5 Mistake. The value of personal use of a company vehicle is treated as taxable wages.

No. 6 Mistake. If there is no documentation on business use of the company auto, all use of the vehicle is taxable as wages to the employee.

No. 7 Mistake. Monthly auto allowances paid for the employee's vehicle are taxable as wages if there is no documentation of business use of the auto.

More Complex Than Ever

There are certainly more taxable and non-taxable fringe benefits for employers and employees. The ones discussed above are the most common benefits provided by small business employers and the most often where mistakes are made either by employers or tax return preparers.

Taxable and non-taxable fringe benefits are much more complex now than historically and require either separate accounts in the general ledger and/or analysis before the employee's W-2s and the company's income tax returns are prepared. Help your clients develop a system for capturing these benefits during the year rather than having to perform time-consuming analysis during the rush periods of return preparation. ■

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