

### **130.9 Working Condition Fringe and De Minimis Fringe**

#### *Working Condition Fringe*

A working condition fringe is any property or service provided to an employee to the extent that if the employee had paid for the fringe, the payment would have been deductible as a business expense. The expense must be an ordinary and necessary business expense and must be properly substantiated to be deductible. To be properly substantiated, the employee must provide the necessary documentation under §162 or §274(d).

- Under §162, if the employee is required to report to his employer, the IRS states such shall be done through an expense account or other written statement showing the business nature and amount of all the employee's expenses broken down into different categories such as travel, entertainment, etc.
- Under §274(d), which only applies to certain categories of items (i.e., travel, entertainment, listed property), the following must be substantiated: the amount of each expense, the date and time of each expense, the location of the expense, the business reason for the expense and the business relationship pertaining to the expense. If this documentation requirement is not satisfied, the employee will be denied the benefit exclusion.

This exclusion is available only to employees, not their families; however, volunteers who provide services for the university can use this exclusion. Any cash payments by the university to an employee are not working condition fringes unless the employee is required to use the money for a specific or pre-arranged business expense, verify the money was actually used for that expense, and return to the university any money not used.

#### *De Minimis Fringe*

A de minimis fringe is any property or service provided to the employee that has such a minimal value that accounting for the receipt of such benefit would be administratively impractical or unreasonable. In determining whether a benefit is de minimis, the IRS looks to the frequency at which the benefit is provided to an individual employee unless this is administratively difficult and then the IRS looks to all employees as a whole. Such benefits include

- an occasional meal, meal money or local transportation fare, especially for overtime work,
- occasional personal use of the university's copy machine,
- traditional birthday or holiday gifts of property with a low fair market value,
- occasional theater or sporting event tickets,
- drinks and snacks,
- local telephone calls, and
- flowers, fruit, books or similar property provided to employees under special circumstances.

Benefits that are not de minimis benefits are season tickets to sporting or theatrical events, private country club or athletic memberships, use of university owned or leased facilities for a weekend, and the commuting use of a university-provided vehicle more than one day per month. In addition, a cash equivalent fringe benefit is not excludable; for example, if cash were given to an employee for a theater ticket, this is not excludable as a de minimis fringe benefit.

If a benefit provided is not de minimis because its value or frequency exceeds a set limit, the entire amount of the benefit is included in the employee's gross income, not just the excess over the amount.