

Tax Compliance: A focus on benefits

Defining Compensation

Once an employment relationship is established, the IRS assumes that all employer-to-employee transfers are compensation, unless there is a specific exclusion or substantiation to rebut that presumption.*

**Substantiating a “business purpose” for the benefit*

Critical Questions

1. *Who is an employee?*
2. *What is considered compensation?*
3. *What is a business purpose?*

Defining Compensation

- Compensation includes anything received in payment for personal services, including salaries, wages, bonuses, commissions, and **fringe benefits**
- Fringe benefits
 - Anything received by you (or someone related to you) because of / related to the services you perform
 - Presumption that all fringe benefits are taxable unless
 - you pay fair market value for them or
 - there is a specific exemption in tax law

Fringe Benefit Examples

<i>Non-Taxable</i>	<i>Taxable</i>
Free or low cost use of on-premises fitness center	Payment of membership at a privately operated fitness center
Christmas ham given to employees	Gift card given to employees to purchase a Christmas ham
Lunch provided to attendees at a lengthy business meeting	Lunch purchased at a restaurant after the meeting ends
Baylor shirt presented at an awards banquet to all employees who reach a 10-year service milestone	Baylor shirt given to employees in a department

Common benefits in higher education: Require careful vetting for tax compliance

- Tickets to athletic events
- Events and entertainment (concerts, performances, etc...)
- Travel related costs for employees or family
- Subsidized meal costs at on campus facilities (McMullen and Dining Halls)
- Clothing or gifts
- Prizes or awards
- Memberships

Cash and cash equivalents (gift cards) to employees are always taxable

Establishing Business Purpose

- ***Is the benefit provided for the employee and/or the family member to carry out assigned business purpose that advances the cause of the institution?***
 - *Employee:* Does the payment (cash or non-cash) advance the mission of the University?
 - Yes: Non-taxable
 - No: Taxable
 - *Family member:* Can a significant business purpose, beyond social or incidental duties, be *documented*?
 - Yes: Non-taxable
 - No: Taxable

De minimis Benefits

- **The IRS treats some benefits as de minimis if it is impractical or unreasonable to track the value of such items**
 - Example: Once per month, donuts are provided for staff in the office. It would be impractical to track the number and type of donuts eaten by each person to determine the taxable value.
- Purchases that can easily be tracked do not meet the de minimis test
 - Example: Baylor-logoed polo shirts are ordered for all faculty and staff in a department, one shirt per person. Since we can easily track who received the shirts, the de minimis rules do not apply
- Infrequent purchases (e.g. once per year) may also be excluded as de minimis but the IRS often considers frequency based on purchases for **all employees** of an organization.

IRS Examination Priorities

In an IRS audit, the following will likely be examined

- Executive Compensation
- Employee vs. Independent Contractor Determinations
- Untaxed Benefits
 - Athletics
 - Dining
 - Entertainment
- Spouse Travel

Tax Manual

Refer to the Baylor University Tax Manual, Section 130 and following for additional guidance

<https://financialservices.web.baylor.edu/tax-manual>