



## *Taxable Gifts Guidance*

The University must ensure that proper *tax reporting requirements* are followed for any *gifts* from the University to a Regent, employee, or family member of either. For purposes of this document, gifts include any payment or non-cash transfer from the University to a member of these groups that lacks a bona fide business purpose.

Appropriate monitoring and reporting requires documentation of the purpose for any payments, reimbursements, or distributions of non-cash items to or for a disqualified person. Appropriate documentation will include sufficient information to determine the bona fide business purpose of the payment or transfer. The IRS defines bona fide business purpose as existing “when if you can prove a real business purpose for the individual's presence” (*IRS Publication 463*). The essential question that must be answered is whether the payment or non-cash distribution carries out the business purpose of the University. If sufficient information is not available to answer this question positively, the payment or distribution must be treated as taxable.

To properly document the bona fide business purpose of a payment to a family member or for the expenses of a family member, the following guidance should be followed:

- *Business Purpose*: A spouse or dependent who attends a function with a University employee and has a significant business purpose for being in attendance, such as meeting with donors or alumni, this constitutes a business purpose under IRS regulations. In such cases, the University will reimburse, tax-free, the spouse or dependent's non-personal expenses directly resulting from travel on University business. Documentation of the business purpose of the travel must be provided along with the expense reimbursement request.
- *Incidental Duties*: The Internal Revenue Service has ruled that when a spouse attends a meeting, conference, or event as a companion and has no significant role, the attendance does not constitute a business purpose. Performing only incidental duties of a clerical or secretarial nature do not constitute a significant role. If the spouse or dependent serves primarily a social purpose, even in a business setting, this does not qualify.

Amounts which cannot be properly documented as having a business purpose must be treated as taxable gifts and reported as compensation if they meet certain thresholds.

- There is no minimum threshold for cash payments, which includes gift cards and similar forms of payment.
- Non-cash items may be reported if the single item value, or combined item value for multiple items given at a single event or activity, equals or exceeds \$100.
  - Such items are always reported as taxable income to employees
  - Such items are reported as taxable income to Regents only when the combined value during the year exceeds IRS reporting requirements (currently \$600)

The following examples are provided to illustrate application of the above guidance.

**Example 1:** All faculty in a department receive a Baylor-logoed sweater with a value of \$110. Since the sweater can be worn in any setting, business-related or otherwise, the business purpose requirement is not met and the value of the sweater must be treated as taxable.

**Example 2:** The spouse of a President's Council member accompanies the PC member on a trip to meet with a University business partner. Though the spouse has no official duties on the trip, he attends a dinner with the business partner, the cost of which is paid by the University. The business purpose requirement is not met and the value of the spouse's meal must be treated as taxable to the PC member.

**Example 3:** Members of the Board of Regents who attend a meeting of the Board receive a book valued at \$30 and spouses of the Regents receive a Christmas ornament valued at \$15. The items are treated as a taxable gift and the combined value of the items must be reported as taxable if the value of all items received by the Regent or the Regent's family members exceed \$600 for the year.

#### *Communication*

When a payment or transfer is determined to be a taxable gift, the individual responsible for the gift should communicate the taxable value of the item at the time it is given. The recipient should be offered the opportunity to reimburse the value of the item rather than have the value treated as taxable income.

Amounts treated as taxable income to employees should be provided to the Payroll Office for inclusion in the payroll process as soon as practical. Amounts reported as taxable income to Regents should be provided to Accounts Payable for Form 1099 tracking.