

Board of Regents University System of Georgia

Fiscal Affairs Mid Year Workshop

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UNIVERSITY SYSTEM OF GEORGIA

Taxable Fringe Benefits – Uniforms/Clothing

Clothing expenses and allowances are taxable fringe benefits, unless an exclusion applies.

For a fringe benefit to be taxable, it need not be furnished directly to the employee by the institution, as long as the benefit is provided in connection with the performance of services for the institution.

The Tax Court has established three criteria for the cost of clothing to be considered an ordinary and necessary business expense:

- the clothing is required or essential in the individual's employment;**
- the clothing is not suitable for general or personal wear; and**
- the clothing is not so worn.**



Taxable Fringe Benefits – Uniforms/Clothing

EXAMPLES of clothing items that may be excluded as working condition fringes:

- Uniforms worn by police officers, health care professionals, delivery workers, letter carriers, transportation workers; chef's coats; certain athletic uniforms.
- Protective clothing such as safety glasses, hard-hats, work gloves, steel-toed work boots, and other clothing required by OSHA regulations.
- Uniform/clothing that is rented and/or returned to the university and is maintained in a central area where the clothing is issued to the employee. The clothing must be kept and cleaned on university property and reissued on a regular basis. The employee may not assume personal possession of the clothing.
- Uniforms for grounds, maintenance, custodial, food service that meet the characteristics of “torn or stinky” (Madsen v. Commissioner), “bulky, utilitarian in fashion and unsuitable for personal use” (Jackson v. Commissioner) or “dirty and stained” (Cross v. Commissioner).



Taxable Fringe Benefits – Uniforms/Clothing

De Minimis Fringe Exclusion – IRC §132(e); Reg. §1.132-6

De minimis fringe benefits are benefits in which the value is so small in relation to the frequency in which it is provided, that accounting for it is unreasonable or administratively impracticable. For purposes of the de minimis exclusion, the term “employee” means any recipient of a fringe benefit. Reg. § 1.132-1(b)(4)

For USG’s purposes, clothing items of **nominal value** (\$75 or less - cumulative annually) and provided **infrequently** (no more than two times per year) may be excluded from taxation as a de minimis fringe benefit.

Note: If either the value or frequency limits are exceeded, the entire value of the benefit (not just the excess amount) is taxable. Reg. §1.132-6 (d)(4)

Note: An apparel allowance, or the value of merchandise credit provided to certain employees that allows them to acquire apparel and goods directly from an outside vendor, **is a taxable fringe benefit.**



Taxable Fringe Benefits – Uniforms/Clothing

EXAMPLES of clothing items that may be excluded as de minimis fringes:

- Low-value clothing bearing the University or department name, such as facilities services (maintenance) uniforms. These uniforms typically have a matching shirt and pant.
- T-shirts provided to employees to wear to promote a campus event



Would 3 polo shirts for the bursar's office personnel with a total cost of \$20 per shirt be a taxable fringe benefit?

Yes

No

Undecided

For security IT personnel are required to wear institutional polo shirt. If IT employee receives 5 shirts at the beginning of employment at a cost of \$20 each is this a taxable fringe benefit?

Yes

No

Undecided

Student orientation workers are required to wear a t-shirt for orientation. The students are given 2 t-shirts at a cost of \$5 each. Are these t-shirts a taxable fringe benefit?

Yes

No

Custodial staff is required to wear a uniform. They are given 5 uniforms at a cost of \$45 each. Are these uniforms a taxable fringe benefit?

Yes

No

The football coaching staff is required to wear attire with the university logo on game day. If they are given clothing from a sponsor to be used on game day is this a taxable fringe benefit?

Yes

No

Taxability of Employee Uniforms/Clothing

Does this BPM section and associated criteria also apply to student workers?

What would be categorized as certain athletic uniforms exclusions?

Effective January 1, 2019

How to track?

- New Chart of Accounts – 714200 Supplies and Materials
 - Clothing
- Sample Form



Do you have any specific clothing examples that you would like to discuss?

Gifts, Prizes and Awards

CASH and cash equivalents, including gift cards, gift certificates, credit/debit cards, Cash, etc. are considered taxable income to the employee regardless of the value.

EXAMPLE: The IRS has ruled that wellness program cash rewards or premium reimbursements must be treated as taxable wages. *IRS Memorandum 201622031*

NON-CASH gifts, prizes, and awards are generally considered taxable income to the employee *unless* they qualify to be excluded as either

- Employee achievement awards, or
- De minimis (\$75 or less)



Gifts, Prizes and Awards

Non-Cash

Employee Achievement Awards – IRC §274(j)

An employee achievement award is defined as **tangible personal property**, which is:

- transferred to the employee **for length of service achievement or safety achievement**,
- awarded as part of a meaningful presentation, and
- awarded in such a manner that it does not create a significant likelihood of being disguised compensation.

An employee achievement award can be excluded from the employee's income if the cost of the award does not exceed \$75. A qualified plan award given is part of an established written plan or program of the taxpayer which does not discriminate in favor of highly compensated employees.



Gifts, Prizes and Awards

Employee Achievement Awards for length of service achievement or safety achievement,

The Governor's Executive Order only allows for non-cash gift prizes limited at \$75. For example, a retiree could be given a plaque for years of services. Any items greater than \$75 would be a violation of the State Gratuity Clause. It is possible for non-cash gift prizes to be greater than \$75, however, they would have to be funded by the foundation or outside party.

Please note that guidance for Incentive Compensation and Rewards Program outlined in the Human Resources Administrative Practice Manual (HRAP) should be followed for cash awards.



Gifts, Prizes and Awards

IRS Taxable Fringe Benefit Regulations:

Employee Achievement Awards

An employee achievement award is an item of tangible personal property (not cash) for **length-of-service** or **safety**. The following requirements must be met for an achievement award to be excludable:

- Must be given for length-of-service or safety, and
- Must be awarded as part of a meaningful presentation, and
- Cannot be disguised wages, or made under conditions and circumstances that create a significant likelihood that it is disguised wages.

The amount of an award that is excludable depends on whether it is considered qualified. A plan is a **qualified plan award** if it meets the tests below:

- The award is made under an established written plan, and
- The plan does not discriminate in favor of highly compensated employees (generally, for 2014, those whose compensation exceeds \$115,000), and
- The average cost of all employee achievement awards (both qualified and nonqualified awards for length of service and safety) made by the employer during a single year does not exceed \$400. Awards of \$50 or less are not included in computing the average. *IRC §274(j)(3)(B)(i); Reg. §1.274-8(c)(5); IR 2013-86*

