

COLORADO STATE UNIVERSITY-PUEBLO
IRS De Minimis Guidance

1) PURPOSE OF THIS DE MINIMIS GUIDANCE

The Procurement Services Office and Office of Financial Management is providing guidance to inform departments of tax issues related to moving expenses, achievement awards, employee events, and items provided to employees in addition to their annual salary/wages.

2) DEFINITIONS

a. De Minimis – Any property or service provided by an employer for an employee, the value of which is so small in relation to the frequency with which it is provided, that accounting for it is unreasonable or administratively impracticable.

b. Employee Achievement Award (U.S. Code, Title 26 §274(j)(3)) - An item of tangible personal property (not cash) which is :

- i. Given by an employer to an employee for length of service achievement or safety achievement, and
- ii. Awarded as part of a meaningful presentation, and
- iii. Awarded under conditions and circumstances that do not create a significant likelihood of the payment of disguised compensation.

c. IRS Publications – Publications issued by the Internal Revenue Service, including without limitation the Internal Revenue Service cumulative bulletins.

d. IRS Regulations – The rules and regulations of the Internal Revenue Service/Department of the Treasury promulgated under the Internal Revenue Code.

e. Qualified Plan Award – An employee achievement award awarded as part of an established written plan or program of the taxpayer which does not discriminate in favor of highly compensated employees (within the meaning of section 414(q)) as to eligibility or benefits.

e. Tangible Personal Property – Personal property that can be felt or touched. Tangible personal property, per U.S. Code, Title 26 §274(j)(3), does *not* include:

- i. Cash, cash equivalents, gift cards, gift coupons, or gift certificates (other than arrangements conferring only the right to select and receive Tangible Personal Property from a limited array of such items pre-selected or pre-approved by the employer), or
- ii. Vacations, meals, lodging, tickets to theater or sporting events, stocks, bonds, other securities, and other similar items.

3) DETERMINING WHETHER A BENEFIT IS DE MINIMIS

Whether an item or service is de minimis depends on all the facts and circumstances. If a benefit is too large to be considered de minimis, the entire value of the benefit is taxable to the employee, not just the excess over a designated de minimis amount.

- a.** Frequency – Occasional, infrequent, not regular
- b.** Value – Benefit valued at no more than \$50.00 (fifty dollars) per calendar year (IRS limit)

4) EXAMPLES OF DE MINIMIS FRINGE BENEFITS

IRS Publication 5137 includes the following examples of de minimis fringe benefits that may be excludable if these are occasional or infrequent, not routine:

- a.** Personal use of photocopier (no more than 15% of total use)
- b.** Group meals, employee picnics
- c.** Theater or sporting event tickets
- d.** Occasional coffee, doughnuts, or soft drinks
- e.** Flowers or fruit for special circumstances
- f.** Local telephone calls
- g.** Commuting use of employer's car if no more than once per month
- h.** Employer-provided local transportation
- i.** Personal use of cell phone provided by employer primarily for business purpose

5) BENEFITS THAT DO NOT QUALIFY AS DE MINIMIS

A. CASH OR CASH EQUIVALENT ARE NEVER DE MINIMIS (GIFT CARDS) – *Any cash or cash equivalent provided to an employee is taxable to the employee. There is no dollar threshold.*

B. MOVING EXPENSES – *No longer excluded from gross income - (All moving expenses are taxable)*

C. OTHER BENEFITS THAT DO NOT QUALIFY AS DE MINIMIS

IRS Publication 5137 includes the following examples of benefits that are not de minimis:

- a. Certain transportation passes or costs*
- b. Use of employer's apartment, vacation home, boat
- c. Commuting use of employer's vehicle more than once a month
- d. Membership in a country club or athletic facility

*Eco-passes are not taxable as long as the fair market value does not exceed the monthly excludable limits set by the IRS.

a) EMPLOYEE ACHIEVEMENT AWARDS

- IRS Publication 5137 includes the following requirements that must be met for an achievement award to be excludable from income:
 - i. Must be given for length-of-service or safety, and
 - ii. Must be awarded as part of a meaningful presentation, and
 - iii. 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:
 - i. The award is made under an established written plan, and
 - ii. The plan does not discriminate in favor of highly compensated employees
 - iii. 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.
- Awards other than for safety or for length-of-service are always nonqualified awards, unless they are qualifying de minimis fringe benefits.

6) LENGTH-OF-SERVICE ACHIEVEMENT AWARDS

An award made for length-of-service award may be excludable from taxation, unless either of the following applies:

- a. The employee received the award during his or her first 5 years of employment.
- b. The employee received another length-of-service award (other than one of very small value) during the same year or in any of the prior 4 years.

7) IMPLICATIONS OF DE MINIMIS OR NOT DE MINIMIS

- a. De Minimis property or services are not taxable to an employee.
- b. Property or services that are not De Minimis are taxable to an employee.

AUTHORITY.

U.S. Code, Title 26 §§132(e), 162, 262, 274(j)(3)

IRS Publication 15-B – (2022) Employers Tax Guide to Fringe Benefits

IRS Publication 5137 (2014) – Fringe Benefit Guide – Office of Federal, State, and Local Governments

IRS Regulation §1.274