

Taxable Fringe Benefits

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Fringe Benefits

- o Any property, service, or cash (other than salary) provided by an employer
- o Taxable
 - o Unless specifically excluded by law
 - o Example: Medical Premiums (IRC 106)

Fringe Benefits

- Identify benefits provided
- Determine if excluded by law
- Determine if fully or partially taxable

Non-Taxable Fringe Benefits:

- Employer paid health reimbursements or health insurance (IRC §104, §106)
- Certain Cafeteria Plan Benefits (IRC §125)
- Working condition fringe (IRC §132)
- De minimis fringe (IRC §132)
- Qualified transportation expenses (IRC §132)

Taxable Fringe Benefits:

- Everything Else
 - W-2 (Never on 1099-NEC)
 - Subject to Federal Withholding, Social Security (if applicable), and Medicare
 - Even when benefit is received by/for spouse or child of employee

Qualified Travel

- Must have an 'Accountable Plan'

Accountable Plan

- Business connection
- Adequate 'accounting' by employee
 - In a reasonable time period
- Excess reimbursement returned
 - In a reasonable time period

Non-Accountable Plan:

- Does NOT meet all 3 requirements for an Accountable Plan
- Benefit is fully taxable when paid

Non-Travel Fringe Benefits:

- Clothing
- Equipment
- Stipends
- Awards
- Bonuses
 - (Illegal Anyway!)

Clothing

- Specifically required as a condition of employment
- AND**
- Are not worn or adaptable to general usage as ordinary clothing.

Clothing

○ Rented clothing is also a taxable fringe benefit

Nontaxable

- Class A Uniform



Taxable

- Polo Shirt
- Socks
- Boots
- T-shirt
- Jacket

○ Cleaning of clothing is also a taxable fringe benefit

Equipment

Nontaxable

- Desk
- Cellular Phone

Taxable

- Vehicle
 - Personal use
- Computer/internet
 - Personal use

Stipend

Taxable

o



Awards

Taxable

- o Cash prizes/awards
- o Performance awards
- o Non-Cash
 - o Use Fair Market Value

Except for:

Awards

Exceptions

- Certain awards transferred to charities
- Certain employee achievement awards
 - Length of service or safety – Not Cash
- Nominal holiday/special occasion
 - Coffee mugs, plaques

Bonuses

- Don't go there!

Bonuses

- o Article VI, Section 38 of the WV Constitution
 - o No extra compensation shall be granted or allowed to any public... servant... after the services shall have been rendered
- o WV Code §12-3-13
 - o No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered.

- o If the benefit is taxable:
 - o Determine the value of the benefit and include it in Wages reported on the W-2

Travel

- o Meals
- o Lodging
- o Transportation

Travel

- o Per Diem allowances
 - o Lodging, meals, and/or incidentals
- o Business related travel
- o While away from home



o <http://www.gsa.gov>

Meals

- o Away from home
 - o Overnight
 - o Accountable Plan – not taxable
 - o Not overnight
 - o Taxable as wages



Meals

- o Business meetings
 - o Not taxable if
 - o Clear business setting
 - o Directly related
- o Employer buys lunch
 - o Taxable as wages

www.gsa.gov

	Lodging	Meals*	Mileage
Standard	110	68	0.67
Charleston	115	68	
Charles Town	122	68	

* first and last day of travel calculated at 75%

- o Meals and Lodging Change with the Federal Fiscal Year
 - o Sometimes more often
- o Mileage generally changes with the Calendar year

Automobile

- o Employee Vehicle used for Employers Business
 - o 2024 Federal Mileage Rate \$0.67
 - o At this rate or less - Non-taxable to employee
 - o Above this rate - Taxable (the excess amount)
 - o Substantiation required

Substantiation

- o Employee reports to employer:
 - o Date, purpose, place of each trip
 - o Mileage 'at or near the time' incurred
 - o Examples: Diary, log, trip sheet, expense settlement, etc.
 - o Commuting is always taxable – it is non-business travel
 - o Except police officers in police cruisers

Automobile

- o Employer Provided Vehicle
 - o Personal Use is taxable
 - o Verified Business Use is not taxable
- o Employee can reimburse employer for personal use

Personal Use

- o If NO record kept
 - o Value of ALL use is taxable
- o If record kept
 - o Only Personal use is taxable

Valuing Personal Use

- o THREE Rules
 - o Automobile Lease Valuation Rule
 - o Cents-Per-Mile Rule
 - o Commuting Rule



Ethics

ADVISORY OPINION NO. 2013-57

Originally Issued on December 12, 2013 and

Ratified on January 21, 2014 by

THE WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **County Commission** asks whether it is permissible to exempt certain emergency services employees from reporting mileage for personal vehicle use as a taxable fringe benefit.

Ethics

- o "...the Commission recognized the potential liability costs..."
 - o To the individual
 - o To another individual
 - o To property of another
 - o To the equipment
- o The Commission hereby finds that personal use of a public vehicle is not 'the performance of usual and customary duties associated with the office'

Ethics

“Therefore, the Ethics Commission hereby finds that the Ethics Act **prohibits public servants’ personal use of** clearly marked emergency services **vehicle for any personal purpose other than commuting.** This opinion is prospective.”

Fringe Benefits Guides

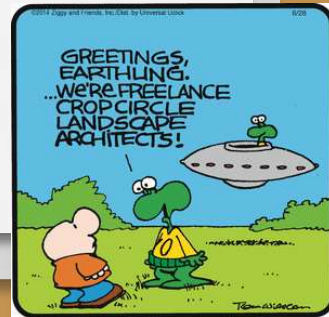
- o Fringe Benefit Guide
 - o <http://www.irs.gov/pub/irs-pdf/p5137.pdf>
- o IRS Publication 15-B
 - o <http://www.irs.gov/pub/irs-pdf/p15b.pdf>

The screenshot shows the IRS website homepage. The navigation bar includes 'File', 'Pay', 'Refunds', 'Credits & Deductions', and 'Forms & Instructions'. A search bar is located on the right. The main content area is divided into three columns: 'INFORMATION FOR...', 'FILING FOR INDIVIDUALS', and 'POPULAR'. A green arrow points to the 'Federal, state and local governments' link under the 'INFORMATION FOR...' section. Below this, there are quick action buttons: 'Get your refund status', 'Sign in to your account', 'Get your tax record', 'Make a payment', 'File your taxes for free', and 'Find forms & instructions'.

The screenshot shows the 'Tax information for federal, state and local governments' page. The left sidebar contains a list of categories: 'Individuals', 'Businesses and self-employed', 'Charities and nonprofits', 'International taxpayers', 'Government entities', 'Federal, state and local governments', 'Employee classification', 'Employment taxes', 'Human resources and benefits', 'Return filing', and 'Day tax compliant'. A green circle highlights the 'Federal, state and local governments' link. The main content area features a section for 'Upcoming events' with a table of registration dates and times, and a 'Recent developments' section.

Date	Time	Register
October 2, 2024	1-2:30 p.m. Eastern time	Register
October 16, 2024	1-2:30 p.m. Eastern time	Register
October 30, 2024	1-2:30 p.m. Eastern time	Register
November 13, 2024	1-2:30 p.m. Eastern time	Register

Employee vs. Independent Contractor



Employee or Independent Contractor

- o Determine worker status
- o Fringe benefit rules apply
- o Accountable plan rules apply
- o Report payments on:
 - o W-2 for Employee
 - o 1099-NEC for Independent Contractor

Employee or Independent Contractor

- o Three Factors
 - o Behavioral control
 - o Financial control
 - o Relationship of parties



Behavioral Control

- o If the Government provides instructions:
 - o On how to do the job
 - o What hours to work, what days, etc.
 - o Who performs the job

The Worker is most likely an Employee



Financial Control

- If the Government provides:
 - An office
 - All office supplies
 - Business equipment

The Worker may be an
Employee

Relationship of Parties

- If the Government provides:
 - Health insurance, life insurance
 - Retirement benefits, 401(k) plan

The Worker may be an
Employee

Independent Contractor

- ◊ Offers services to the public
- ◊ Operates own business
- ◊ Bills for services
- ◊ Doesn't have to personally perform the work

Bad Logic to be Contractor

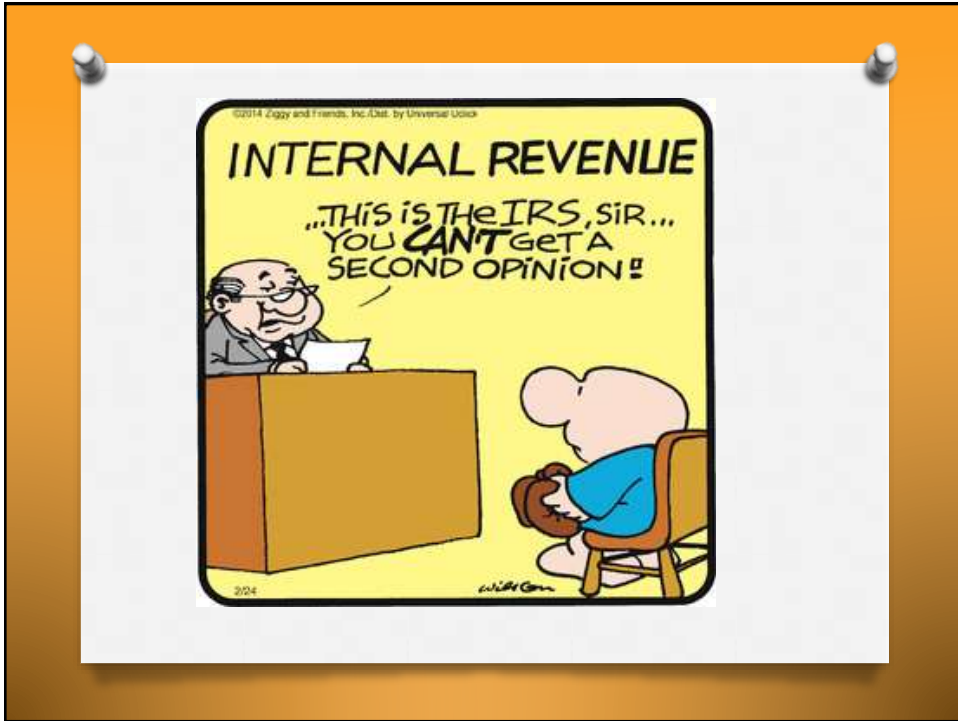
- ◊ Part time
- ◊ Avoid benefits
- ◊ Just a few weeks
- ◊ Trial Period
- ◊ Retired and re-hired
- ◊ Avoid overtime
- ◊ Funded position with a grant

Reporting for Employees

- o All Compensation goes on W-2
 - o Awards
 - o Back pay
 - o Bonuses (don't do it)
 - o Severance pay
 - o Taxable fringe benefits

Reporting for Independent Contractors

- o All Compensation for Services goes on 1099-NEC
 - o If Non-accountable Plan:
 - o Include Reimbursed Expenses on 1099-NEC



Questions???

- o Patsy Kerns, FSLG Specialist
 - o 304-561-3010
- o Internet:
 - o www.irs.gov/govts