

PAYROLL REPORTING FOR FRINGE BENEFITS, TO TAX OR NOT TO TAX

NORTHSTAR APA CONFERENCE OCTOBER 24, 2019



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Introduction - With You Today



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Paul Cheung is a Managing Director in BDO with over 20 years of experience in federal, state and local employment taxes and leads the U.S. Employment Tax Practice at BDO. He has extensive experience in worker classification, process improvement, audit defense, penalty resolution, mergers & acquisitions and employment tax planning & compliance.

Paul worked at several public accounting and consulting firms specializing in providing employment tax services to clients in a variety of industries. In addition, Paul was also a payroll manager at a large media and publishing company for 2 years and a national telecommunications company for 5 years.

Paul earned his B.S. Accounting degree from University of Illinois at Chicago.

Professional Affiliations
American Institute of Certified Public Accountants
American Payroll Association
Illinois CPA Society

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What's New?

Public Law 115-97
Tax Cuts and Jobs Act
(2018 - 2025)

- Moving Expense Reimbursement
- Bicycle Commuting Reimbursements
- Withholding on Supplemental Wages
- Definition of Marriage



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Agenda

Fringe Benefits

- Definition
- General Taxability & Reporting Form
- Cafeteria Plans
- Fringe Benefit Exclusions
- Rules for Reporting and Withholding
- Fringe Benefits - Work Assignments



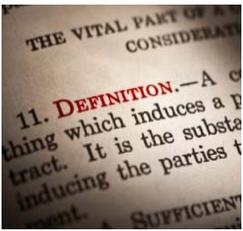
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Fringe Benefits

Definition:
A fringe benefit is a form of pay for the performance of services.

A person who performs services for you doesn't have to be your employee. A person may perform services for you as an independent contractor, partner, or director. Also, for fringe benefit purposes, treat a person who agrees not to perform services (such as under a covenant not to compete) as performing services.



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Fringe Benefits

- Provider of the Benefit



- Recipient of the Benefit

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Fringe Benefits - Taxability

Any fringe benefit you provide is taxable and must be included in the recipient's pay unless the law specifically excludes it.

Recipient Receives As:	
Employee	Form W-2
Independent Contractor	Form 1099-MISC Form 1042-S
Partner	Schedule K-1 (Form 1065)

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Cafeteria Plans

A Cafeteria Plan is a reimbursement plan governed by IRC Section 125 which allows employees to contribute a certain amount of their gross income to a designated account or accounts before taxes are calculated

Qualified Benefits	Benefits Not Allowed
<ul style="list-style-type: none"> Accident and health benefits (but not Archer medical savings accounts (Archer MSAs) or long-term care insurance). Adoption assistance. Dependent care assistance. Group-term life insurance coverage (including costs that can't be excluded from wages). Health savings accounts (HSAs). Distributions from an HSA may be used to pay eligible long-term care insurance. 	<ul style="list-style-type: none"> Archer MSAs. See <i>Accident and Health Benefits</i> in section 2. Athletic facilities. De minimis (minimal) benefits. Educational assistance. Employee discounts. Employer-provided cell phones. Lodging on your business premises. No-additional-cost services. Retirement planning services. Transportation (commuting) benefits. Tuition reduction. Working condition benefits.

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Fringe Benefit Exclusion Rules

- Accident and health benefits
- Achievement awards**
- Adoption assistance
- Athletic facilities
- De minimis (minimal) benefits**
- Dependent care assistance
- Educational assistance**
- Employee discounts
- Employee stock options
- Employer-provided cell phones**
- Group-term life insurance coverage
- Health savings accounts (HSAs)
- Lodging on your business premises**
- Meals**
- No-additional-cost services**
- Retirement planning services
- Transportation (commuting) benefits**
- Tuition reduction
- Working condition benefits

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Fringe Benefit Exclusion - Educational Assistance

An educational assistance program is a separate written plan that provides educational assistance only to your employees. The program qualifies only if all of the following tests are met.

- The program benefits employees who qualify under rules set up by you that don't favor highly compensated employees. To determine whether your program meets this test, don't consider employees excluded from your program who are covered by a collective bargaining agreement if there is evidence that educational assistance was a subject of good-faith bargaining.
- The program doesn't provide more than 5% of its benefits during the year for shareholders or owners (or their spouses or dependents). A shareholder or owner is someone who owns (on any day of the year) more than 5% of the stock or of the capital or profits interest of your business.
- The program doesn't allow employees to choose to receive cash or other benefits that must be included in gross income instead of educational assistance.
- You give reasonable notice of the program to eligible employees.

You can exclude up to \$5,250 of educational assistance you provide to an employee under an educational assistance program from the employee's wages each year.

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Fringe Benefit Exclusion - Employer Provided Cell Phones

The value of the business use of an employer provided cell phone, provided primarily for noncompensatory business reasons, is excludable from an employee's income as a working condition fringe benefit. Personal use of an employer provided cell phone, provided primarily for non-compensatory business reasons, is excludable from an employee's income as a de minimis fringe benefit. The term "cell phone" also includes other similar telecommunications equipment.



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Fringe Benefit Exclusion - Lodging on Business Premises

You can exclude the value of lodging you furnish to an employee from the employee's wages if it meets the following tests.

- It is furnished on your business premises.
- It is furnished for your convenience.
- The employee must accept it as a condition of employment.



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Fringe Benefit Exclusion - Meals

De Minimis Meals

You can exclude any occasional meal you provide to an employee if it has so little value (taking into account how frequently you provide meals to your employees) that accounting for it would be unreasonable or administratively impracticable. The exclusion applies, for example, to the following items.

- Coffee, doughnuts, or soft drinks.
- Occasional meals or meal money provided to enable an employee to work overtime. However, the exclusion doesn't apply to meal money figured on the basis of hours worked, or meals or meal money provided on a regular or routine basis.
- Occasional parties or picnics for employees and their guests.

Meals on Your Business Premises

You can exclude the value of meals you furnish to an employee from the employee's wages if they meet the following tests.

- They are furnished on your business premises.
- They are furnished for your convenience.

If you allow your employee to choose to receive additional pay instead of meals, then the meals, if chosen, aren't excluded. The exclusion also doesn't apply to cash allowances for meals.

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Fringe Benefit Exclusion - No Additional Cost Services

This exclusion applies to a service you provide to an employee if it doesn't cause you to incur any substantial additional costs. The service must be offered to customers in the ordinary course of the line of business in which the employee performs substantial services.

No-additional-cost services are excess capacity services, such as airline, bus, or train tickets; hotel rooms; or telephone services provided free, at a reduced price, or through a cash rebate to employees working in those lines of business.



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Fringe Benefit Exclusion - Transportation (Commuting) Benefits

De Minimis Transportation Benefits

You can exclude the value of any de minimis transportation benefit you provide to an employee from the employee's wages. A de minimis transportation benefit is any local transportation benefit you provide to an employee if it has so little value (taking into account how frequently you provide transportation to your employees) that accounting for it would be unreasonable or administratively impracticable.



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Fringe Benefit - Rules for Reporting

For employment tax and withholding purposes, you can treat taxable noncash fringe benefits (including personal use of employer-provided highway motor vehicles) as paid on a pay period, quarter, semiannual, annual, or other basis. But the benefits must be treated as paid no less frequently than annually. You don't have to choose the same period for all employees. You can withhold more frequently for some employees than for others.

You can change the period as often as you like as long as you treat all of the benefits provided in a calendar year as paid no later than December 31 of the calendar year.

You can treat the value of taxable noncash fringe benefits provided during the last 2 months of the calendar year, or any shorter period within the last 2 months, as paid in the next year.



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Fringe Benefit - Rules for Withholding

You can add the value of taxable fringe benefits to regular wages for a pay-roll period and figure income tax withholding on the total. Or you can withhold federal income tax on the value of fringe benefits at the flat 22% or 37% rate that applies to supplemental wages.

You must withhold the applicable income, social security, and Medicare (including surcharge where applicable) taxes on the date or dates you chose to treat the benefits as paid.

If you choose to pay your employee's social security and Medicare taxes on taxable fringe benefits without deducting them from his or her pay, you must include the amount of the payments in the employee's wages. Also, if your employee leaves your employment and you have unpaid and uncollected taxes for noncash benefits, you're still liable for those taxes. You must add the uncollected employee share of social security and Medicare tax to the employee's wages.



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Qualifying Business Expenses

Travel expenses are the ordinary and necessary expenses of traveling away from home for your business, profession, or job.

An ordinary expense is one that is common and accepted in your trade or business. A necessary expense is one that is helpful and appropriate for your business. An expense doesn't have to be required to be considered necessary.



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Qualifying Business Expenses

If you have expenses for...	THEN you can deduct the cost of...
transportation	Travel by airplane, train, bus, or car between your home and your business destination. If you were provided with a free ticket or you are riding free as a result of a frequent traveler or similar program, your cost is zero. If you travel by ship, see <i>Luxury Travel: Travel and Cruise Ships</i> under <i>Conventions</i> , earlier, for additional rules and limits.
taxi, commuter bus, and airport limousine	Taxes for these and other types of transportation that take you between: <ul style="list-style-type: none"> • The airport or station and your hotel, and • The hotel and the work location of your customers or clients, your business meeting place, or your temporary work location.
baggage and shipping	Shipping baggage and sample or display material between your regular and temporary work locations.
car	Operating and maintaining your car when traveling away from home on business. You can deduct actual expenses or the standard mileage rate, as well as business-related tolls and parking. If you rent a car while away from home on business, you can deduct only the business-use portion of the expenses.
lodging and meals	Your lodging and non-entertainment related meals if your business trip is overnight or long enough that you need to sleep or eat to properly perform your duties. Meals include amounts spent for food, beverages, taxes, and related tips. See <i>Meals</i> , later, for additional rules and limits.
cleaning	Dry cleaning and laundry.
telephone	Business calls while on your business trip. This includes business communication by fax machine or other communication devices.
tips	Tips you pay for any expenses in this chart.
other	Other similar ordinary and necessary expenses related to your business travel. These expenses might include transportation to or from a business meal, public stenographer's fees, computer rental fees, and operating and maintaining a house trailer.

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Travel Assignments

Concept of Tax Home

Generally, your tax home is your regular place of business or post of duty, regardless of where you maintain your family home. It includes the entire city or general area in which your business or work is located.

If you have more than one regular place of business, your tax home is your main place of business.



Question: Can you have more than one tax home at one time?

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Determination of Tax Home

Main Place of Business or Work

- The total time you ordinarily spend in each place.
- The level of your business activity in each place.
- Whether your income from each place is significant or insignificant.

NOTE: Your tax home may be different from your family home. If you do not live at your tax home, you cannot deduct the cost of traveling between your tax home and your family home. You also cannot deduct the cost of meals and lodging while at your tax home.

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Scenario #1

Your family home is in Pittsburgh, where you work 12 weeks a year. The rest of the year you work for the same employer in Baltimore. In Baltimore, you eat in restaurants and sleep in a long-stay hotel. Your salary is the same whether you are in Pittsburgh or Baltimore.

- Where is your tax home?
- Could you receive a non-taxable per diem while in Baltimore?
- Would your hotel and meals in Baltimore with receipts be considered taxable compensation?
- Would reimbursement of your travel expenses be considered taxable or non-taxable?
(Think about this one.)

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Scenario #2

EXAMPLE #1

Your family home and work location is in Pittsburgh. You have been sent to Baltimore for a six month project and will return to your primary work location in Pittsburgh at its completion. In Baltimore, you eat in restaurants and sleep in a long-stay hotel. Your salary is the same whether you are in Pittsburgh or Baltimore.

- Where is your tax home?
- Could you receive a non-taxable per diem while in Baltimore?
- Would your hotel and meals in Baltimore with receipts be considered taxable compensation?
- Would reimbursement of your travel expenses be considered taxable or non-taxable?
(Think about this one.)

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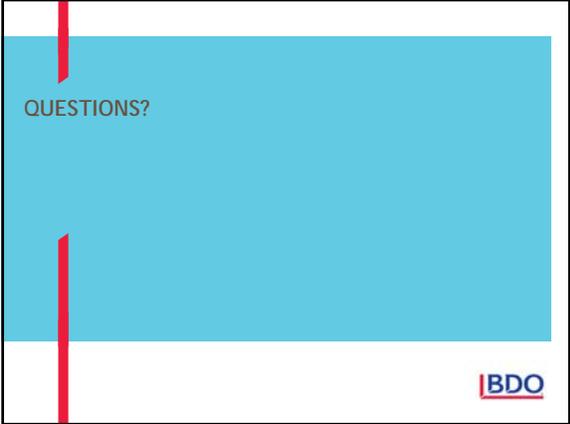
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In Summary



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