

System-wide Policy: FI0900 - Fringe Benefits Provided to Employees	
Version: 3	Effective Date: 02/05/2019

FI0900 – Fringe Benefits Provided to Employees

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Objective:

To ensure that the tax laws are observed with respect to taxable fringe benefits provided to university employees. To also provide guidance that informs university campuses and institutes of their responsibility to appropriately notify the System Payroll Office of taxable fringe benefits provided to employees and to facilitate proper withholding and reporting of payroll taxes.

Policy:

General Policies

1. The University of Tennessee provides several fringe benefits to employees. While some of the fringe benefits are provided university wide, others are provided to specific employees by their departments or colleges. Fringe benefits are a form of pay (including property, services, cash or cash equivalent) in addition to salary for the performance of services. These benefits include items such as meals and lodging (other than travel reimbursements), tickets, tuition waivers, etc.
2. Unless expressly excluded or deferred until a later year under the Internal Revenue Code (IRC), all taxable fringe benefits should be included in the employee's gross income in the year in which they are received.

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Non-Taxable Fringe Benefits

3. No-additional cost services are defined as any service provided for use by an employee if the service is offered primarily for sale to students and third parties and the university incurs no substantial additional cost in providing the service to the employee. Examples are recreational facility use and tickets to events that have not sold out. *IRC §132(b)*
4. Working condition fringes are any property or service provided to an employee that if the employee had paid for, the payment would be deductible as a business expense. Examples are **business use** of the following: wireless communication devices (see [FI0730 - Telephones and Other Communication Devices](#)), university provided automobiles (see [FI0725 - Use of University Vehicles](#)), airplanes and chartered flights, club memberships, professional dues, publications and meetings. With the exception of university provided wireless communication devices, any personal use of these items is considered taxable income. Effective January 1, 2011, the IRS ruled the value of any personal use of an employer-provided cell phone primarily for noncompensatory business purposes is excludable from the employee's income as a de minimis fringe benefit. *IRC §132(d), Notice 2011-72*
5. De minimis fringes include any property or service provided to an employee **infrequently** and that has a value so small that accounting for it is unreasonable and administratively impractical. Examples include occasional theater or sporting event tickets, group meals or picnics, awards and gifts – (see [FI0720 - Retirement Receptions](#) for more information on gifts and awards). *IRC §132(e); Reg. §1.132-6(b)*
6. A qualified employee discount allows an employee to obtain property or services from the university at a price below that charged to the general public. Generally, a qualified employee discount cannot exceed 20%. Otherwise, it may be taxable. *IRC §132(c)(1)(B)*
7. Meals and lodging provided to an employee may be non-taxable under certain circumstances. To qualify as non-taxable, the benefits must be in-kind (cash allowances do not qualify), provided for the university's convenience and on the

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university’s business premises. An additional requirement for university-provided housing is that it must be required as a condition of employment for the employee to properly fulfill the duties of his/her employment. *IRC §119*

8. Clothing Exempt from Taxation

Uniform expenses and allowances may be considered working-condition fringe benefits. The acquisition and maintenance of employee uniforms are tax-deductible or tax-exempt as ordinary and necessary business expenses if the uniforms are: **(1)** specifically required as a condition of employment; and **(2)** of a distinctive nature and not of a type that is adaptable to general or continued usage as ordinary clothing. It is important that both parts of the definition be met for the exemption to be allowed.

Non-taxable clothing also includes protective clothing. Protective clothing should follow the US office of Safety and Health Administration (OSHA) Code of Federal Regulations (CFR) (29 CFR 1910.132.d) with the employer making an assessment of the hazards of the workplace. In such an instance where protective clothing is purchased, the supervisor shall identify and justify the specific items of clothing that are required for the safety of the employee in performing the job. The clothing must serve as a matter of employee protection and safety under OSHA rules to qualify as exempt from taxation.

Departments often purchase low-cost clothing items for employees running summer camps or for orientation-type events. Any clothing purchases costing \$100 or less per employee, per calendar year will be considered a de minimis fringe benefit and will thus be non-taxable to the employee.

The following chart is provided to help you determine if the clothing purchased for your employees is considered taxable income to them.

Exclusion	Description	Examples
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<i>De Minimis</i> : Dollar Amount	All clothing of low value for one employee in a calendar year is excluded as a <i>de minimis</i> fringe benefit.	T-shirts provided on an annual or bi-annual basis to student employees for special events (e.g., summer camps, orientation, etc.)
<i>De Minimis</i> : Administratively Impractical	Any clothing of low value that accounting for it is unreasonable or administratively impracticable and that is purchased infrequently is a <i>de minimis</i> fringe benefit.	Low-value clothing bearing the university's name, which must be worn by the employee, such as facilities services (maintenance) uniforms. These uniforms typically have a matching shirt and pant. Jeans are not considered part of a uniform.
Working Condition Fringe for Safety Purposes	All clothing that is required to be worn for the employee's safety and protection while on the job is excluded.	Safety glasses, hard-hats, work gloves, steel-toed work boots, and other clothing required by OSHA regulations
Working Condition Fringe for Clothing not adaptable for non-work use	All clothing that is required to be worn as a condition of employment and is considered unsuitable for ordinary wear is excluded.	Uniforms worn by police officers, health care professionals, delivery workers, and letter carriers. Chef coats worn by employees in the Culinary Department. Certain athletic uniforms.
Working Condition Fringe for Clothing rented or returned after use at work	Any 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 is excluded. The clothing must be kept and cleaned on university property and reissued to employees on a regular basis. The employee may not assume personal possession of the clothing.	Rented uniforms worn by employees in transportation services. Certain athletic uniforms and clothing worn by employees.

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Apparel allowances, 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.

Departments that require employees to wear uniforms, the cost of which is not excludable from income, can manage tax consequences in one of three ways: (1) they may purchase the uniforms for employees, directly or through reimbursement, impute the value of the clothing, and report the amounts to the Payroll Office to be included on the employees' Forms W-2; (2) departments may purchase the uniforms, impute the income, and pay the taxes for the employees by grossing up the cost of the benefit; or (3) they may allow employees to purchase and/or maintain their uniforms themselves, eliminating tax liability altogether. Should your department choose option 1 or 2, please use the [Taxable Fringe Benefit Reporting Template](#) to report taxable clothing benefits to the Payroll Office.

If any questions arise regarding the exclusion (or inclusion) of clothing in an employee's taxable wages, please contact the Controller's Office for a final determination.

9. Educational tuition assistance (both undergraduate and graduate level) provided to employees is often non-taxable, subject to certain parameters. *IRC 117(d); IRC 127; IRC 132(d)*
10. Employer reimbursements to employees for the cost of their professional licenses/certificates and professional organization dues may be excludable if they are directly related to the employee's job. Once an employee has completed the education or experience required for a professional license, the expenses necessary to maintain a license or status are considered ordinary and necessary business expenses and therefore are not taxable to the employee, when paid directly or reimbursed by the university subject to substantiation requirements (i.e. receipts). When paid or reimbursed by the university for an employee, the fees are a working condition fringe benefit. The expense, however, cannot qualify the employee for a new trade or business or assist them in meeting the

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minimum qualifications for their current job. For example, the university pays the annual CPA license fee for the facilities director each year. The facility director does not use his CPA expertise on the job for the university. Because the facility director does not use his CPA expertise in his university capacity, it is not a working condition fringe benefit and is subject to Federal income, social security and Medicare taxes. Furthermore, if the CPA license is a minimum requirement for the position, the payment for review courses or other expenses associated with obtaining this license would also be consider taxable.

Taxable Fringe Benefits

12. Cash fringe benefits, such as gift cards and gift certificates, are generally always taxable. While not an exhaustive list, some taxable non-cash fringe benefits identified by the university as being subject to employment tax and reporting are:

- Apparel allowance – Value of a merchandise credit provided to certain employees that allows them to acquire apparel and goods directly from an outside vendor.
- University provided vehicle – Value of personal use of a university-provided vehicle (including courtesy cars).
- Club membership – Value of university-paid club memberships and related expenditures to the extent that such activities are not documented to serve a bona-fide university business purpose.
- Gift certificates – Value of any cash-equivalent gift certificate awarded to an employee (see [FI0717](#) for additional information).
- University-provided housing – Market value of lodging provided by the university that does not meet the tests for exclusion as identified above.
- Tickets – Value of season tickets/passes to events for which there is no bona-fide business purpose or the no-additional cost service exclusion does not apply.
- Spousal travel/meals – Value of university-paid travel and meals for the spouse of a university official or athletic department employee when the spouse’s attendance serves no documented official University business

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purpose (if spouse's attendance is primarily social in nature, this does not qualify as a bona-fide business purpose). When the aircraft is a university-provided plane (university owned or chartered), and 50% or more of the regular passenger seating capacity of the plane is filled with employees flying for substantiated business reasons, the value of the flight will not be included in the income of those employees who are flying for personal reasons. This also applies to spouses and dependent children, surviving spouses, and retired employees. *Reg. 1.61-21(g)(12)*

- Graduate tuition – Value of university-paid tuition credits taken by an employee enrolled in a graduate degree program, where the total tuition benefit exceeds \$5,250 in a calendar year and does not qualify as job-related education. Exception – Graduate education benefit provided to graduate students who are performing research or teaching for the university is not subject to tax. If the courses being taken are required by the University to maintain or improve skills for your current job or are required to keep your present salary, status or job, the graduate tuition waiver would not be taxable. To document this, the employee is required to complete the [Employee Request for Job Related Tuition Exemption Form](#).
- Third party provided benefits – Generally, if a third party pays or provides a fringe benefit to a university employee in connection with the employee's performance of services for the university, the payment is considered taxable income to the employee. University imposed withholding and reporting requirement occurs when the benefit is part of the employee's employment contract, contemplated during the employment process, or provided by a third party via agreement with the University. Where a third party provides a benefit to a university employee on its own and without the approval of the university, the taxable value of this fringe is not considered taxable wages reportable by the university on the employee's W-2. The employee should be aware that there still may be income tax consequences from such an arrangement; however, in this case, the university has no withholding or reporting obligations with regard to the benefit.

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Reporting Taxable Fringe Benefits

13. Departments/colleges that provide fringe benefits to employees must consult the System Payroll Office to ascertain whether the benefit is taxable and if not taxable, to ensure that the appropriate documentation is being maintained to support exclusion from taxable income.
14. Generally, taxable fringe benefits are valued at their fair market value (FMV). According to the IRS, FMV is the amount a willing buyer would pay an unrelated willing seller, neither one forced to conduct the transaction and both having reasonable knowledge of the facts. In many cases, the cost and FMV are the same; however, there are many situations in which FMV and cost differ, such as when the employer incurs a cost less than the value to provide the benefit. *Reg. §1.61-21(b)*
15. Taxable fringe benefits may be reported to the System Payroll Office using the [Taxable Fringe Benefit Form](#) (unless otherwise instructed by another policy or upon mutual agreement with the System Payroll Office, a different reporting mechanism may be used). Appropriate documentation that supports the taxable value to be included in the employee's income must accompany the Taxable Fringe Benefit Form. Posting of taxable income and the applicable withholding is dependent upon the timing of receipt of documentation by the System Payroll Office. The System Payroll Office is responsible for ultimately determining the taxable amount. This ensures a consistent valuation of the benefits and compliance with IRS regulations. Departments should contact the System Payroll Office for additional reporting procedures.
16. It is intended that this policy conform to the applicable provisions of Internal Revenue Code Section. Nothing in this policy shall be construed to confer eligibility for benefits for which an employee is not otherwise eligible under federal/state law, policy or practice. The university reserves the right to amend this policy at any time without notice to conform with applicable laws and regulations.

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FORMS:

- [Employee Request for Job Related Tuition Exemption](#)
- [Taxable Fringe Benefit Documentation Form](#)
- [Taxable Fringe Benefit Reporting Template](#)

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Related Policies: [FI0910 - Taxability of Graduate Tuition Waiver for Employees](#)