

The background of the slide is a golden-yellow color with a dense, repeating pattern of various currency symbols (dollar, euro, yen, pound) in a 3D, embossed style. The symbols are arranged in a way that they appear to be floating or overlapping, creating a textured, metallic effect.

Brunch & Learn

January 18, 2023



Let the IRS be your friend

- The Fringe Benefit Guide
- What is De Minimis Fringe Benefits
- What are some “Away from Tax Home” Exclusions
- Transportation Expenses and Commuting
- Meals and Lodging
- Awards & Prizes



The **IRS Fringe Benefit Guide** (Publication 5137) is your **Friend!**

- Find it at: <https://www.irs.gov/pub/irs-pdf/p5137.pdf>
- 65 Pages of Information

It provides practical information detailing what is taxable and nontaxable including:

- De minimus Fringe Benefits
- Transportation Fringe Benefits
- Health & Medical Benefits
- Moving Expenses
- Meals & Lodging
- Awards & Prizes
- Professional Dues, etc.

What is the definition of **De Minimis Fringe Benefits**?

De minimis fringe benefits include **any property or service**, provided by an employer for an employee, the value of which is **so small in relation to frequency** with which it is provided, that accounting for it is unreasonable or administratively impracticable.

The value of the benefit is determined by the **FREQUENCY** it's provided to each employee, or, if this not administratively practical, the **FREQUENCY** provided by the employer to the workforce as a whole.

For Example:

An employer provides a meal daily to one employee, (e.g., substitute teacher), but not to any other employee.

The benefit is “frequent” for that employee and is, therefore, not de minimis even though the benefit may be “infrequent” with respect to the entire workforce.

The law does not specify a value threshold for benefits to qualify as de minimis.

Treas. Reg. Section 1.132-6(b)(2)

Examples of Excludable De minimis Fringe Benefits:

All the following **MAY** be excludable de minimis fringe benefits if they are occasional or infrequent, **NOT ROUTINE**:

- Personal use of photocopier (no more than 15% of total use)
- Group meals, employee picnics
- Theater or sporting event tickets
- Occasional coffee, doughnuts or soft drinks
- Flowers or fruit for special circumstances
- Local telephone calls
- Traditional birthday or holiday gifts (not cash) with low fair market value
- Commuting use of employer's car if no more than once per month
- Employer-provided local transportation
- Personal use of cell phone provide by employer primarily for a business purpose

Treas. Reg. Section 1.132-6(e)(1) Notice 2011-72

Benefits that Do **NOT** Qualify as De minimis :

Common examples of benefits that **do not** qualify as de minimis:

- Cash – except for infrequent meal money to allow overtime work
- Cash equivalent (for example, savings bond, gift certificate)
- Certain transportation passes or costs
- Use of employer's apartment, vacation home, boat
- Commuting use of employer's vehicle more than once a month
- Membership in a country club or athletic facility

The “Away from Tax Home Exclusion:

For a reimbursement of a business travel expense, including meals and lodging, to be excludable from income, a taxpayer must temporarily travel in pursuit of business.

“Away from home” has been interpreted by the U.S. Supreme Court to require an employee **to travel overnight, or long enough to require substantial “sleep or rest.”**

Thus, working overtime or at a great distance from the employee’s residence does not create an exclusion for reimbursement for travel expenses if the employee returns home without spending the night or stopping for substantial “sleep or rest.”

The “Away from Tax Home Example:

An employee is required to travel from Bismarck to Williston to work for the day. The employee leaves home at 6:30 a.m. and returns that night at midnight. On the trip home the employee stops for dinner and rests in the car for two hours.

Even though the employee has been away from home for substantially longer than a normal workday, they are not considered to be in travel status. The courts have ruled that stopping for a meal or a rest in a car does not meet the substantial “sleep or rest” rule.

Therefore, the meal reimbursement would be taxable.

Transportation Expenses and Commuting:

It's important to distinguish expenses for transportations from commuting costs.

Commuting refers to travel between an employee's (board member) personal residence and main or regular place of work.

Reimbursements for these expenses are never excludable!

However, reimbursements of transportation expenses for getting from one workplace to another in the course of the employer's business may be excludable from wages.

Treas. Reg. Sections 1.162-2(e) and 1.262-1(b)(5); Rev. Rul. 99-7

Transportation Expenses and Commuting Example:

An employee drives from her home to her main office in the morning. In the afternoon, she drives to a satellite office in another town and then returns to her residence.

The trip between the employee's home and place of business is personal commuting and any reimbursement for this part of the trip is taxable to her as wages. If the accountable plan rules are met, employer reimbursement for the travel from her main office to the satellite work site and return trip home is excludable.

Awards and Prizes:

Unless specifically exclude, prizes or awards given to employees are taxable. The following awards are **ALWAYS** taxable as wages to an employee (regardless of the cost or fair market value):

- Cash or cash equivalent awards, such as savings bonds or gift certificates
- Recognition awards, cash or non-cash, for job performance, unless they are qualifying de minimis fringe benefits
- Non-cash prizes (unless de minimis) won by employees from random drawings at employer sponsored events
- Awards for performance, such as outstanding customer service, employee of the month, or awards based on productivity
- Achievement awards, cash or non-cash, that do not meet specific qualified plan award rules,
- Awards for length of service or safety achievement that does not meet specific requirements of IRC Section 274(j)

Awards and Prizes:

Cash awards to employees are always taxable. Generally, the value of an award or prize given by an employer is taxable to the employee as wages, includable on the W-2, and subject to federal income tax withholding, Social Security and Medicare.

IRC Sections 74 & 3121(a)(20)

And Finally

School Board members are public officials. Elected public officials should generally be classified as employees. The IRS considers school board members as **employees** of the district.