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## **Fringe Benefit Reporting**

As 2010 draws to a close, we want to remind you about including taxable fringe benefits in all applicable employees' and /or shareholders' taxable wages. Fringe benefits are defined as a form of pay for performance of services given by a company to its employees and/or shareholders as a benefit. Fringe benefits must be included in an employee's pay unless specifically excluded by law. Please note the actual value of the fringe benefits provided must be determined by January 31st of the year following the receipt of the benefits. Prior to January 31, you must reasonably estimate the value of the fringe benefits for purposes of withholding and depositing payroll taxes on time. Below you will find important information regarding the identification and accounting for several customarily provided fringe benefits. If you have a question about a fringe benefit that is not addressed below, please don't hesitate to contact us. Please note that failure to include taxable fringe benefits in an employee's/shareholder's Form W-2 may result in lost deductions and additional tax and penalties.

### **Common Taxable Fringe Benefits**

#### ***Employer-paid group-term life insurance in excess of \$50,000***

This fringe benefit is subject to OASDI (FICA)/Medicare only. Though the amount is included in gross wages, federal and state income tax withholding is not required.

#### ***Employee business expense reimbursements/allowances under non-accountable plans***

This fringe benefit is subject to OASDI (FICA)/Medicare, FUTA, FITW and SITW. If an employee received an allowance/reimbursement from the company for company related expenses (i.e., travel, a car, etc.), then the amount should be included in the employee's wages. If the employee gave an accounting (adequate substantiation) of the expenses incurred or used IRS per diem amounts (i.e., filled out an expense voucher and refunded any excess allowances/reimbursements to the company), then there is no amount to be added to the Form W-2. If, however, the employee kept any amounts in excess of the expenses accounted for, or did not provide an accounting (adequate substantiation) of the expenses incurred, all of the reimbursed expenses should be added to taxable wages on the Form W-2.

#### ***Value of personal use of company car***

This fringe benefit (unless reimbursed by the employee) is subject to OASDI (FICA)/Medicare, FUTA, FITW and SITW. However, you may elect not to withhold FITW and SITW on the value of this fringe benefit if the employee is properly notified by January 31 of the electing year or 30 days after a vehicle is provided. For

administrative convenience, an employer can elect to use the twelve month period beginning November 1 of the prior year and ending October 31 of the current year (or any other twelve month period ending in November and December) to calculate the current year's personal use of a company car if the employee is properly notified no earlier than the employees' last paycheck of the current year and no later than the date the W-2 forms are distributed. Once elected, the same accounting period generally must be used for all subsequent years with respect to the same auto and employee.

### ***Value of personal use of company aircraft***

This fringe benefit (unless reimbursed by the employee) is subject to OASDI (FICA)/Medicare, FUTA, FITW and SITW. The value calculated is based on the Standard Industry Fare Level formula provided by the Internal Revenue Service. Expenses related to personal entertainment use by officers, directors and 10% or greater owners that are in excess of the value treated as compensation to the key employees are nondeductible corporate expenses. Feel free to contact us for assistance calculating the value of the personal use of a company aircraft.

### ***Value of employee achievement awards, gifts and prizes***

This fringe benefit is subject to OASDI (FICA)/Medicare, FUTA, FITW and SITW. In general, employee achievement awards, gifts and prizes that do not specifically qualify for exclusion are only deductible for the employer up to \$25 per person per year unless the excess is included as taxable compensation for the recipient. Any gifts in excess of \$25 per person per year to employees in the form of tangible or intangible property are includable as a taxable fringe benefit for employees. There are two exclusions from the general rule for employee achievement awards:

1. There are exclusions that exist for length of service (must be greater than five years and not awarded to same employee in the prior four years) and safety achievement awards, each of them being made as part of a meaningful presentation. The exclusion applies only for awards of tangible personal property and is not available for awards of cash, gift certificates or equivalent items. The exclusion for employee achievement awards is limited to \$400 per employee for nonqualified (unwritten and discriminatory plans) or up to \$1,600 per employee for qualified plans (written and nondiscriminatory plans).
2. Minimal benefit amounts can be excluded when the benefit is of so little value (taking into account the frequency) that accounting for it would be unreasonable or administratively impractical and are excluded from income and employment taxes. A common misconception is that if a fringe benefit is less than \$25, then it is automatically considered a minimal benefit. However, there is no statutory authority for this position. If a fringe benefit does not qualify as minimal, generally the entire amount of the benefit is subject to income and employment taxes as detailed above. Minimal benefits never include cash, gift cards/certificates or cash equivalent items no matter how little the amounts. Gift certificates that cannot be converted to cash and is otherwise a minimal fringe benefit, which is redeemable for only specific merchandise; such as ham, turkey or other item of similar nominal value, would be excluded from income. However, gift certificates/cards that are redeemable for a significant variety of items are deemed to be cash equivalents. Any portion of such a gift certificate/card redeemed would be included in the employees' Form W-2s and subject to income and employment taxes as detailed above.

### ***Value of qualified transportation fringe benefits***

Any qualified commuting and parking amounts provided to the employee by the employer in excess of the statutory limits are subject to OASDI (FICA)/Medicare, FUTA, FITW and SITW. For 2010, the statutory limits are \$230 per month for qualified parking and \$230 per month for van pooling and transit passes. Employers can also exclude up to \$20 per month for qualified bicycle commuting reimbursement.

### ***Value of personal use of employer-provided cell phone***

The passage of the Small Business Jobs Act of 2010, H.R. 5297 eliminated the strict substantiation requirements for employer-provided cell phones. For tax periods beginning after December 31, 2009, the fair market value of the personal use of an employer-provided cell phone that is predominately used for business purposes is excluded from the employees' gross income.

### **S Corporation Adjustments**

In addition to the adjustments previously discussed, an S corporation must include certain fringe benefit items on the Form W-2 of any shareholders that had, directly or indirectly, a greater than 2% ownership on any day during the tax year. These fringe benefits are generally excluded from income of other employees. If these fringe benefits are not included in the shareholders' Form W-2 then they are not deductible for tax purposes. This results in a mismatch of benefits and expenses among shareholders and the shareholders usually end up paying more tax than if the fringe benefits had been properly reported on Form W-2.

The includable fringe benefits are items paid by the S corporation for:

#### ***Health, dental, vision, hospital and accident (AD&D) insurance premiums and qualified long-term care (LTC) insurance premiums paid under a corporate plan***

This fringe benefit is subject to FITW and SITW only (not OASDI [FICA]/Medicare or FUTA). This amount includes premiums paid by the S corporation on behalf of a 2% or greater shareholder and amounts reimbursed by the S corporation for premiums paid directly by the shareholder. If the shareholder partially reimburses the S corporation for the premiums, using post-tax payroll deductions, the net amount of premiums must be included in the shareholders' compensation. 2% or greater shareholders cannot use pre-tax payroll deductions to reimburse premiums paid by the S corporation.

**According to Notice 2008-1, any health insurance premiums that are not included in the shareholders' W-2 are not eligible to be deducted by the S corporation.**

#### ***Employer contributions into health savings accounts (HSA)***

This fringe benefit is subject to FITW and SITW only (not OASDI [FICA]/Medicare or FUTA). If the shareholder partially reimburses the S corporation for the HSA contribution, using post-tax payroll deductions, the net amount of the contribution must be included in the shareholders' compensation. 2% or greater shareholders cannot use pre-tax payroll deductions to reimburse HSA contributions paid by the S corporation.

### ***Short-term and long-term disability premiums***

These fringe benefits are subject to OASDI (FICA)/Medicare, FUTA, FITW and SITW.

### ***Group-term life insurance premiums***

All group-term life insurance premiums are taxed, not just those in excess of \$50,000. The premiums are subject to OASDI (FICA)/Medicare only. The premiums are not subject to FUTA, FITW and SITW. Please note that you should not include in the shareholder's Form W-2 any premiums on policies for which the corporation is both the owner and beneficiary.

### ***Other taxable fringe benefits***

Shareholders that are greater than 2% owners of an S corporation are ineligible to participate in an S corporation's cafeteria plan. All shareholder benefits derived from the cafeteria plan must be included in shareholders' compensation. A cafeteria plan may be terminated upon IRS audit, if a greater than 2% owner of an S corporation participates. In addition, employee achievement awards, qualified transportation fringe benefits, qualified adoption assistance, employer contributions to medical savings account (MSA), qualified moving expense reimbursements, personal use of employer-provided property or services and meals and lodging furnished for the convenience of the employer must also be included as compensation to greater than 2% owners of an S corporation. All the above fringe benefits are subject to OASDI (FICA)/Medicare, FUTA, FITW and SITW.

### ***Nontaxable fringe benefits***

The following fringe benefits are NOT includible in the compensation of greater than 2% owners of an S corporation: qualified retirement plan contributions, qualified educational assistance up to \$5,250, qualified dependent care assistance up to \$5,000, qualified retirement planning services, no-additional-cost services, qualified employee discounts, working condition fringe benefits, minimal fringe benefits and on-premises athletic facilities.

## **Accounting for the Adjustments**

Once you have identified the fringe benefits subject to tax, you must choose a method to account for them. The following are methods generally used to account for fringe benefits:

**Method 1:** Gross-up the fringe benefit to cover payroll taxes and add the grossed-up amount to the Form W-2.

**Method 2:** Treat the fringe benefit amount as the gross pay and withhold the corresponding payroll taxes from the employee's last paycheck.

**Method 3:** Have the employee reimburse the company for the amount of the fringe benefit.