



# PRIMA Fall 2019 Course

IRS and Public Entity Issues

Navigating the IRS Rules as a Government Employer



# Tax Forms Compliance

All those "W" forms

# W-4

- Single with zero deductions (S/o) is your default
  - No form
  - Invalid form
- If you have a previous valid form, default to the previous
- The form is invalid if the employee indicates it is false.
- For those who claimed “exempt” from withholding, request a new form by February 15<sup>th</sup> of the current year
- Cannot claim exempt if earning more than \$10,400 ( Single) to \$20, 800 (married filing joint)
- See Publication 505 for additional information on W-4



# W-2



- Make sure all the info is correct – a \$50 to \$100 penalty per form if you fail to provide a timely and correct W2
- Common Errors
  - Incorrect name or address
  - Inaccurately reporting wages, i.e. taxable fringe benefits (discussed later)
  - Incorrectly reporting moving expenses
- Electric Filing is required for employers over 250 employees
- Due date for filing to BOTH IRS And employee is January 31<sup>st</sup>.
  - You may file a one-time 30 day extension request on Form 8809
- See General Instructions for Forms W-2 and W-3 for more information



# Fringe Benefits

What's taxable and what's not

# What are Fringe Benefits?

- **IRS Definition:**
  - A fringe benefit (FB) is a form of pay for the performance of services
  - All FB's are taxable unless specifically excluded in IRC §132(a)
  - Taxable basis is Fair Market Value in the tax year the benefit was received
  - Non-discrimination rules apply - IRC § 414(q) and Treasury Reg § 1.132-8(a)
- **Examples we will cover today:**
  - De Minimis Fringes
  - Employee Achievement Awards
  - Working Condition Fringes
  - Qualified Employee Discounts
  - Educational Assistance
  - Meals
  - Clothing
  - Housing
  - Transportation Fringes
  - No-Additional Cost Services
  - Cell Phones
  - Domestic Partner Benefits

# De Minimis Fringes

## General Guidelines:

- “little value” and “Impractical to account for”
- No cash redemption for gift certificates and gift cards
- IRS does not define a threshold for considering De Minimis
- See IRS Publication 15-b



## IRS Examples of non-taxable:

- Occasional personal use of company copying machine
- Occasional Snacks, coffee, doughnuts, etc.
- Flowers, plaques, coffee mugs for special occasions
- Holiday/Birthday Gifts or special circumstances
- Occasional meals
- Company parties or Picnics.
- Theater or sporting events tickets
- Certain transportation fares

# Employee Achievement Awards

- **IRS Publication 15B or 535-** Tangible personal property may be excluded from wages if it meets the following:
  - A current Employee
  - Given for length of service or safety
  - Awarded as part of a meaningful presentation
  - Not created to disguise pay
- **Other rules:**
  - No more than \$400 per award or \$1600 annually under a qualified plan. Qualified plans (written policies) may be higher.
  - The exclusion doesn't apply to awards of cash, cash equivalents, gift certificates, or other intangible property such as vacations, meals, lodging, tickets to theater or sporting events, stocks, bonds, and other securities.



# Working Conditions and Discounts

## IRS Definition – Working Conditions:

- Ordinary and necessary for your job (Pub 529)
- You could deduct the item from your taxes if you paid for it yourself (Sec's. 162, 167)
- Includes employee business expenses that would be eliminated by the 2% floor on misc. deductions
- Job related Education
  - Qualified:
    - Required by the employer to keep present salary, status, or job.
    - Maintain or improve skills needed in the job
  - Non-Qualified:
    - Program of study for a new trade or business

## Discounts are nontaxable if:

- Not on real estate or investment property
- Same line of business as the employee's job
- Not greater than the gross profit margin on property or 20% on services
- Benefit is offered on a nondiscriminatory basis



# Educational Assistance

## IRS Publication 15B:

- Tuition, books, fees, required equipment are non-taxable
- Room and board ARE taxable
- Employer-paid educational assistance is not taxable if it's for a qualified program
- Maximum tax exclusion is \$5,250 for any tax year



# Meals and Clothing

Can exclude meals if all apply:

- Minimal value
- Not provided regularly
- Provided for overtime work
- **Frequency exception:**
  - On-the-job meals
  - Comes with housing

Excludable clothing can be either de minimus or considered a working condition fringe:

- Required uniform not suitable for everyday use
- Required for safety
- Ordinary clothing with Logo and written policy



# Housing

## Pub 15-B - Nontaxable if:

- On the business premises or
- Furnished for the convenience of the employer and substantial business reason
- Accepting the housing is a condition of employment
- For educational institutions: Rental housing is excludable if annual rents paid are equal to 5% of the appraised value
  - Personal services provided with lodging ARE taxable



# Cell Phones



**Not taxable to employee if it is not considered a form of payment. I.E. there's a business purpose.**

# Transportation

Categories that qualify (up to \$265/month) are:

\*\*Parking

\*\*Transit passes

\*\*Vanpooling

These are also exempt from

FICA and FIT



# No Additional Cost Services

- IRS conditions (Sec 132(b)(1):
  - Services only, offered to customers in normal course of business
  - Employer incurs no substantial additional cost for providing the service (excess capacity)
  - Employee works in this line of business
  - Is offered on a nondiscriminatory basis (Sec 132(j)(1))

Example: airline offers vacant coach seats to flight attendants at cost with no reserve seating. This passes the 4 requirements above. The employer is not giving up potential revenue.

# Other Benefit Categories

- **Domestic Partners'** benefits do not qualify for tax exemption and are included in the employee's taxable income
- **Pub 15-B** – Employer's Tax Guide to Fringe Benefits is very helpful:

<https://www.irs.gov/pub/irs-pdf/p15b.pdf>



**Volunteers** can receive non-taxable fringe benefits:

- Discounts
- Parking and Transit
- Meals on premises
- Education benefits
- Insurance coverage – health and accident and up to \$50K in group life insurance. All other insurance is taxable
- Reimbursements for out-of-pocket expenses by volunteers are not taxable
- Pub 5134 provides detailed info on volunteers





# Independent Contractor vs. Employee

Classify like a pro

# It's All About Control

- Behavioral
  - Degree of direction and control
  - How, when and where work is done
  - Who provides tools and/or equipment
- Financial
  - Significant investment
  - Expenses
  - Opportunity for profit/loss
- Relationship
  - Benefits provided
  - Contracts between
  - How permanent is it?



# Side by Side Comparison

## Independent Contractor

- Usually an individual or a company
- Requires an W-9 to be kept in your file
- Must maintain their own workers compensation insurance
- No payroll taxes paid or withheld
- No unemployment insurance paid
- Compensation in the form of direct payment
- Does not participate in company benefits
- Does not participate in health care

## Employee

- Always an individual – a company cannot be an employee
- Requires a W-4, state paperwork & job application
- Covered under workers compensation
- Must have federal and state withholding
- Must have FICA withheld
- Must have unemployment tax paid on behalf
- Compensation in the form of payroll checks/direct deposit
- Participates in company health care and benefits

# You're probably an independent contractor if...

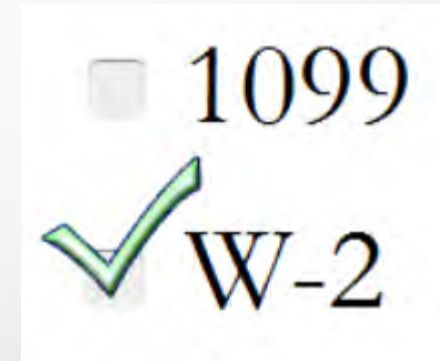
- You make your own schedule
- Buy your own products
- Set your hours worked
- Furnish your own supplies & equipment
- Make a profit or loss depending on your own business decisions

W2

1099

# You're probably an employee if...

- Required to work certain hours
- Required to wear a uniform
- Do not make your own appointments
- Owner provides training
- Owner provides supplies & equipment
- You have no risk of loss
- You can quit without liability to the employer





# 1099 Compliance

Info, dates and resources

# What you need to know

## Compliance

- All vendors should fill out a W-9. Penalties will be assessed for not having a w-9 on file for each vendor.
- Corporations, S-Corporations, and some LLC are not required to receive 1099's. However, you can still send them one.
- Every vendor who has been paid at least \$600 for services as a non-employee should be issued a 1099. You not required to send a 1099 for materials and supplies vendors. However, you can still send them one.
- CP-2100A notices are sent to agencies were taxpayer identification numbers (TIN or EIN) do not match names and addresses. You are required to withhold backup withholding (income tax withholding) for any individual or company that is listed on a CP-2100A notice two years in a row. Backup withholding is processed through form 941 payroll tax quarterly reports.
- You can sign up for TIN or EIN matching through the IRS website.

## Due Dates – IRS Pub 1220

- To vendors and IRS by January 31, 2020 for 1099 misc nonemployee compensation
- IRS paper file (<250 forms) due February 28, 2020 for all other 1099's
- IRS E-File (>250 forms) due March 31, 2020 for all other 1099's



# Resources

- IRS website [www.irs.gov](http://www.irs.gov)
- IRS Payroll Professional Tax Center [www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Payroll-Professionals-Tax-Center-Information-for-Payroll-Professionals-and-Their-Clients](http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Payroll-Professionals-Tax-Center-Information-for-Payroll-Professionals-and-Their-Clients)
- Publication 15, (Circular E), Employer's Tax Guide
- Publication 15-A, Employer's Supplemental Tax Guide
- Publication 15-B, Employer's Tax Guide to Fringe Benefits
- Publication 509, Tax Calendars
- SSA BSO website [www.socialsecurity.gov/bsowelcome.htm](http://www.socialsecurity.gov/bsowelcome.htm)
- State and local departments of revenue and employment security websites
- Subscription-based payroll compliance resources
- APA (*The Payroll Source* and many other publications)
- BNA (*Payroll Library*)
- CCH (*Payroll Management Guide*)
- RIA (*Payroll Practitioner's Compliance Handbook*)



# Local Resources

PRIMA (Public Risk Management Association)

[www.primacentral.org](http://www.primacentral.org)

ICCTFOA (Idaho City Clerks, Treasurers, Finance Officers)

[www.idahocities.org](http://www.idahocities.org)

AIC (Association of Idaho Cities) [www.idahocities.org](http://www.idahocities.org)

IAC (Idaho Association of Counties) [www.idcounties.org](http://www.idcounties.org)

IDOL (Idaho Department of Labor) [www.labor.idaho.gov](http://www.labor.idaho.gov)

ICRMP [www.icrmp.org](http://www.icrmp.org)



Thank You!