



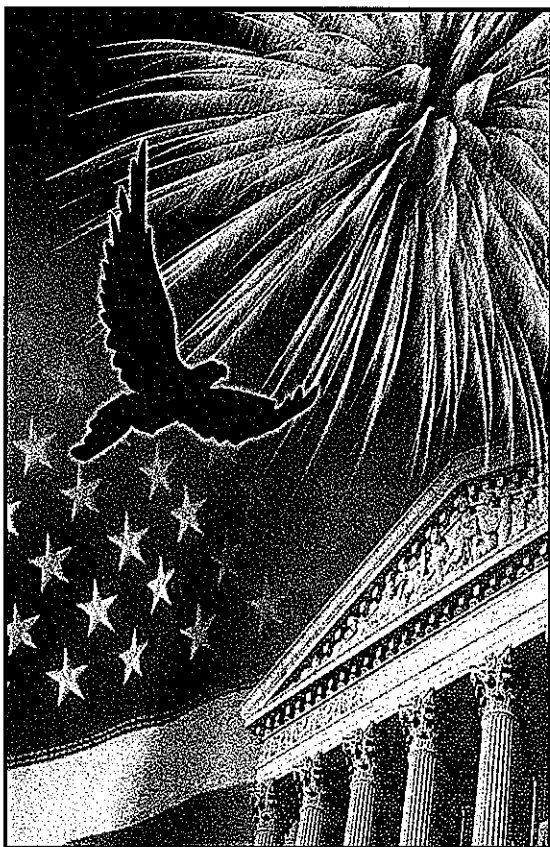
Department of the Treasury  
Internal Revenue Service

## Publication 15-B

Cat. No. 29744N

# Employer's Tax Guide to Fringe Benefits

For use in **2009**



Get forms and other  
information faster and  
easier by:

Internet [www.irs.gov](http://www.irs.gov)

## Contents

What's New .....	1
Reminders .....	2
Introduction .....	2
<b>1. Fringe Benefit Overview .....</b>	<b>2</b>
Are Fringe Benefits Taxable? .....	2
Cafeteria Plans .....	3
<b>2. Fringe Benefit Exclusion Rules .....</b>	<b>4</b>
Accident and Health Benefits .....	6
Achievement Awards .....	7
Adoption Assistance .....	7
Athletic Facilities .....	8
De Minimis (Minimal) Benefits .....	8
Dependent Care Assistance .....	8
Educational Assistance .....	9
Employee Discounts .....	10
Employee Stock Options .....	10
Group-Term Life Insurance Coverage .....	11
Health Savings Accounts .....	13
Lodging on Your Business Premises .....	14
Meals .....	15
Moving Expense Reimbursements .....	17
No-Additional-Cost Services .....	17
Retirement Planning Services .....	18
Transportation (Commuting) Benefits .....	18
Tuition Reduction .....	20
Volunteer Firefighter and Emergency Medical Responder Benefits .....	20
Working Condition Benefits .....	21
<b>3. Fringe Benefit Valuation Rules .....</b>	<b>22</b>
General Valuation Rule .....	23
Cents-Per-Mile Rule .....	23
Commuting Rule .....	24
Lease Value Rule .....	25
Unsafe Conditions Commuting Rule .....	27
<b>4. Rules for Withholding, Depositing, and     Reporting .....</b>	<b>28</b>
How To Get Tax Help .....	29
Index .....	32

## What's New

**Cents-per-mile rule.** The standard mileage rate you can use under the cents-per-mile rule to value the personal use of a vehicle you provide to an employee in 2009 is 55 cents per mile. See *Cents-Per-Mile Rule* in section 3.

**Increase in qualified parking exclusion and commuter transportation benefit.** For 2009, the monthly exclusion for qualified parking increases to \$230 and the monthly exclusion for commuter highway vehicle transportation and transit passes increases to \$120. See *Qualified Transportation Benefits* on page 19.

**Volunteer firefighter and emergency medical responder benefits.** After 2007, gross income of volunteer firefighters and emergency medical responders who are part of a qualified volunteer emergency response organization shall not include any qualified state and local tax benefit and any qualified payment. For more information, see *Volunteer Firefighter and Emergency Medical Responder Benefits* on page 20.

**Qualified bicycle commuting reimbursement.** After 2008, qualified transportation fringe benefits include any qualified bicycle commuting reimbursement. For more information, see *Qualified Transportation Benefits* on page 19.

---

## Reminders

**Photographs of missing children.** The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

---

## Introduction

This publication supplements Publication 15 (Circular E), Employer's Tax Guide, and Publication 15-A, Employer's Supplemental Tax Guide. It contains information for employers on the employment tax treatment of fringe benefits.

**Comments and suggestions.** We welcome your comments about this publication and your suggestions for future editions.

You can write to us at the following address:

Internal Revenue Service  
Business Forms and Publications Branch  
SE:W:CAR:MP:T:B  
1111 Constitution Ave. NW, IR-6526  
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at [\\*taxforms@irs.gov](mailto:*taxforms@irs.gov). (The asterisk must be included in the address.) Please put "Publications Comment" on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

---

## 1. Fringe Benefit Overview

A fringe benefit is a form of pay for the performance of services. For example, you provide an employee with a fringe benefit when you allow the employee to use a business vehicle to commute to and from work.

**Performance of services.** A person who performs services for you does not 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.

**Provider of benefit.** You are the provider of a fringe benefit if it is provided for services performed for you. You may be the provider of the benefit even if it was actually furnished by another person. You are the provider of a fringe benefit your client or customer provides to your employee for services the employee performs for you.

**Recipient of benefit.** The person who performs services for you is the recipient of a fringe benefit provided for those services. That person may be the recipient even if the benefit is provided to someone who did not perform services for you. For example, your employee may be the recipient of a fringe benefit you provide to a member of the employee's family.

## Are Fringe Benefits Taxable?

Any fringe benefit you provide is taxable and must be included in the recipient's pay unless the law specifically excludes it. Section 2 discusses the exclusions that apply to certain fringe benefits. Any benefit not excluded under the rules discussed in section 2 is taxable.

**Including taxable benefits in pay.** You must include in a recipient's pay the amount by which the value of a fringe benefit is more than the sum of the following amounts.

- Any amount the law excludes from pay.
- Any amount the recipient paid for the benefit.

The rules used to determine the value of a fringe benefit are discussed in section 3.

**On your business premises.** For this exclusion, your business premises is generally your employee's place of work. (For special rules that apply to lodging furnished in a camp located in a foreign country, see section 119(c) of the Internal Revenue Code and its regulations.)

**For your convenience.** Whether or not you furnish lodging for your convenience as an employer depends on all the facts and circumstances. You furnish the lodging to your employee for your convenience if you do this for a substantial business reason other than to provide the employee with additional pay. This is true even if a law or an employment contract provides that the lodging is furnished as pay. However, a written statement that the lodging is furnished for your convenience is not sufficient.

**Condition of employment.** Lodging meets this test if you require your employees to accept the lodging because they need to live on your business premises to be able to properly perform their duties. Examples include employees who must be available at all times and employees who could not perform their required duties without being furnished the lodging.

It does not matter whether you must furnish the lodging as pay under the terms of an employment contract or a law fixing the terms of employment.

**Example.** A hospital gives Joan, an employee of the hospital, the choice of living at the hospital free of charge or living elsewhere and receiving a cash allowance in addition to her regular salary. If Joan chooses to live at the hospital, the hospital cannot exclude the value of the lodging from her wages because she is not required to live at the hospital to properly perform the duties of her employment.

**S corporation shareholders.** For this exclusion, do not treat a 2% shareholder of an S corporation as an employee of the corporation. A 2% shareholder is someone who directly or indirectly owns (at any time during the year) more than 2% of the corporation's stock or stock with more than 2% of the voting power. Treat a 2% shareholder as you would a partner in a partnership for fringe benefit purposes, but do not treat the benefit as a reduction in distributions to the 2% shareholder.

## Meals

This section discusses the exclusion rules that apply to de minimis meals and meals on your business premises.

### De Minimis Meals

You can exclude any meal or meal money 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 does not apply to meal money figured on the basis of hours worked.)
- Occasional parties or picnics for employees and their guests.

This exclusion also applies to meals you provide at an employer-operated eating facility for employees if the annual revenue from the facility equals or exceeds the direct costs of the facility. For this purpose, your revenue from providing a meal is considered equal to the facility's direct operating costs to provide that meal if its value can be excluded from an employee's wages as explained under *Meals on Your Business Premises* later.

**TIP** *If food or beverages you furnish to employees qualify as a de minimis benefit, you can deduct their full cost. The 50% limit on deductions for the cost of meals does not apply. The deduction limit on meals is discussed in chapter 2 of Publication 535.*

**Employee.** For this exclusion, treat any recipient of a de minimis meal as an employee.

**Employer-operated eating facility for employees.** An employer-operated eating facility for employees is an eating facility that meets all the following conditions.

- You own or lease the facility.
- You operate the facility. (You are considered to operate the eating facility if you have a contract with another to operate it.)
- The facility is on or near your business premises.
- You provide meals (food, drinks, and related services) at the facility during, or immediately before or after, the employee's workday.

**Exclusion from wages.** You can generally exclude the value of de minimis meals you provide to an employee from the employee's wages.

**Exception for highly compensated employees.** You cannot exclude from the wages of a highly compensated employee the value of a meal provided at an employer-operated eating facility that is not available on the same terms to one of the following groups.

- All of your employees.
- A group of employees defined under a reasonable classification you set up that does not favor highly compensated employees.

For this exclusion, a highly compensated employee for 2009 is an employee who meets either of the following tests.

1. The employee was a 5% owner at any time during the year or the preceding year.
2. The employee received more than \$105,000 in pay for the preceding year.

You can choose to ignore test (2) if the employee was not also in the top 20% of employees when ranked by pay for the preceding year.

## 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.

This exclusion does not apply if you allow your employee to choose to receive additional pay instead of meals.

**On your business premises.** Generally, for this exclusion, the employee's place of work is your business premises.

**For your convenience.** Whether you furnish meals for your convenience as an employer depends on all the facts and circumstances. You furnish the meals to your employee for your convenience if you do this for a substantial business reason other than to provide the employee with additional pay. This is true even if a law or an employment contract provides that the meals are furnished as pay. However, a written statement that the meals are furnished for your convenience is not sufficient.

**Meals excluded for all employees if excluded for more than half.** If more than half of your employees who are furnished meals on your business premises are furnished the meals for your convenience, you can treat all meals you furnish to employees on your business premises as furnished for your convenience.

**Food service employees.** Meals you furnish to a restaurant or other food service employee during, or immediately before or after, the employee's working hours are furnished for your convenience. For example, if a waitress works through the breakfast and lunch periods, you can exclude from her wages the value of the breakfast and lunch you furnish in your restaurant for each day she works.

**Example.** You operate a restaurant business. You furnish your employee, Carol, who is a waitress working 7 a.m. to 4 p.m., two meals during each workday. You

encourage but do not require Carol to have her breakfast on the business premises before starting work. She must also have her lunch on the premises. Since Carol is a food service employee and works during the normal breakfast and lunch periods, you can exclude from her wages the value of her breakfast and lunch.

If you also allow Carol to have meals on your business premises without charge on her days off, you cannot exclude the value of those meals from her wages.

**Employees available for emergency calls.** Meals you furnish during working hours so an employee will be available for emergency calls during the meal period are furnished for your convenience. You must be able to show these emergency calls have occurred or can reasonably be expected to occur.

**Example.** A hospital maintains a cafeteria on its premises where all of its 230 employees may get meals at no charge during their working hours. The hospital must have 120 of its employees available for emergencies. Each of these 120 employees is, at times, called upon to perform services during the meal period. Although the hospital does not require these employees to remain on the premises, they rarely leave the hospital during their meal period. Since the hospital furnishes meals on its premises to its employees so that more than half of them are available for emergency calls during meal periods, the hospital can exclude the value of these meals from the wages of all of its employees.

**Short meal periods.** Meals you furnish during working hours are furnished for your convenience if the nature of your business restricts an employee to a short meal period (such as 30 or 45 minutes) and the employee cannot be expected to eat elsewhere in such a short time. For example, meals can qualify for this treatment if your peak work-load occurs during the normal lunch hour. However, they do not qualify if the reason for the short meal period is to allow the employee to leave earlier in the day.

**Example.** Frank is a bank teller who works from 9 a.m. to 5 p.m. The bank furnishes his lunch without charge in a cafeteria the bank maintains on its premises. The bank furnishes these meals to Frank to limit his lunch period to 30 minutes, since the bank's peak workload occurs during the normal lunch period. If Frank got his lunch elsewhere, it would take him much longer than 30 minutes and the bank strictly enforces the time limit. The bank can exclude the value of these meals from Frank's wages.

**Proper meals not otherwise available.** Meals you furnish during working hours are furnished for your convenience if the employee could not otherwise eat proper meals within a reasonable period of time. For example, meals can qualify for this treatment if there are insufficient eating facilities near the place of employment.