

### Internal Revenue Manual Section 4.23.5.13.2 (05-22-2015)

#### Fringe Benefits under IRC Section 132 and Definitions

1. IRC 132(a) provides that gross income shall not include any fringe benefit that qualifies as one of the following:
  1. No-additional-cost service,
  2. Qualified employee discount,
  3. Working condition fringe,
  4. De minimis fringe,
  5. Qualified transportation fringe,
  6. Qualified moving expense reimbursement,
  7. Qualified retirement planning services, or
  8. Qualified military base realignment and closure fringe.
2. **No-Additional-Cost Services:**IRC 132(b) applies when an employee receives a free service at no substantial additional cost (including foregone revenue) to the employer. Generally, no-additional-cost services are only available to employees with respect to services that are offered for sale to customers in the ordinary course of the same line of business in which the employee performs substantial services for the employer. Generally, no-additional-cost services are excess capacity services, such as airline tickets or hotel rooms.
3. **Qualified Employee Discount:**IRC 132(c) applies to a price reduction an employer gives an employee on qualified property or services that are offered to customers in the ordinary course of the same line of business in which the employee performs substantial services for the employer. The discount on services is limited to 20 percent of the price charged to customers. The discount on merchandise cannot exceed the gross profit percentage times the price charged to customers for the item.
4. **Working Condition Fringe:**IRC 132(d) applies to any property or service provided to an employee to the extent that, if the employee paid for it, the amount paid would be allowable as a deduction as an ordinary and necessary business expense under IRC 162 or IRC 167. This exclusion applies to property and services provided by an employer to an employee, necessary for an employee to perform their job. Examples of working condition fringe benefits include an employee's use of a company car for business or the provision of job-related education.
5. **De minimis Fringe:**IRC 132(e) applies to any property or service provided to employees that is provided infrequently and has so little value that accounting for it would be unreasonable or administratively impracticable. A cash fringe benefit (or cash equivalent) is never excludable as de minimis, regardless of amount, except for occasional meal money or transportation fare meeting certain conditions. Examples of de minimis fringe benefits include:

1. Occasional personal use of a company copying machine,
2. Occasional parties or picnics for employees and their guests,
3. Occasional tickets for entertainment or sporting events,
4. Flowers or fruit for special occasions, and
5. Holiday gifts, **other than cash**, with a low fair market value (FMV).
6. **Qualified Transportation Fringes:** This exclusion is defined in IRC 132(f) and applies to the following benefits:
  1. A ride in a commuter highway vehicle, under IRC 132(f)(5)(A), meaning any highway vehicle that transports the employee between the employee's home and work place. The vehicle must seat at least 6 adults (excluding the driver) and the expectation must exist that at least 80 percent of the vehicle's mileage will be for transporting employees between home and work. Employees must occupy at least one-half of the seats, not including the driver.
  2. A transit pass, under IRC 132(f)(5)(A), meaning any mass transit pass, token, farecard, or voucher entitling a person to ride free or at a reduced rate on a mass transit system or in a commuter highway vehicle as defined previously.
  3. Qualified parking, under IRC 132(f)(5)(C), meaning parking that the employer provides to employees on or near the employer's business premises. It also includes parking on or near the location from which employees commute to work using mass transit, commuter highway vehicles, carpools or any other means.
7. **Qualified Moving Expense Reimbursement:** IRC 132(g) applies to any amount given to an employee, directly or indirectly, as payment for, or a reimbursement of, moving expenses. Only those expenses that the employee could deduct under IRC 217, if the employee had paid or incurred them, are excludable. Any other expenses paid by the employer on behalf of the employee are includible as compensation subject to employment taxes. Examples of non-excludable expenses include house-hunting trips, storage of goods, closing costs, and interest free or low interest loans when an employee's former home has not sold. Expenses that qualify under this exclusion are limited to reasonable expenses for:
  1. Moving household goods and personal effects from the former home to the new home, and
  2. Traveling expenses, including lodging, from the former home to the new home.
8. **Qualified Retirement Planning Services:** IRC 132(m) applies to any retirement planning advice or information provided to an employee and the employee's spouse by an employer maintaining a qualified employer plan. A qualified plan includes an employer's pension, profit-sharing, or stock bonus plan. It also includes an annuity plan described in IRC 403(a) or IRC 403(b), a simplified employee pension within the meaning of IRC 408(k) and any simple retirement account described in IRC 408(p).
9. **Qualified Military Base Realignment and Closures:** IRC 132(n) applies to certain payments to offset the adverse effects on housing values as a result of a military base realignment or closure.
10. **On-Premises Athletic Facilities:** IRC 132(j)(4)(B) means an on-premises athletic facility operated by the employer in which substantially all of the use is by employees, their spouses, and their dependent children. The athletic facility must be located on premises that the

employer owns or leases. A public facility or a facility for residential use does not qualify for this exclusion. See IRC 132(j)(4).