



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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CONEX-124427-08

Dear _____ :

This letter responds to your inquiry dated May 7, 2008, to Senator Richard Shelby. Senator Shelby asked us to respond to you directly about a dollar limit on de minimis fringe benefits. You said in your letter that in your workplace, any noncash gift to an employee with a value of over \$50 has to be processed through payroll for applicable taxes to be withheld. Your employer may be using this \$50 limit as a rule of convenience in the administration of the de minimis fringe benefit rules. The \$50 limit is not imposed by the Internal Revenue Code.

A de minimis fringe benefit is any property or service the value of which is (after taking into account the frequency with which the employer provides similar fringes to other employees) so small as to make accounting for it unreasonable or administratively impracticable. Internal Revenue Code § 132(e)(1).

Treasury Regulation section 1.132-6(e)(1) provides examples of benefits excludable from gross income as de minimis fringe benefits. Examples of de minimis fringe benefits are:

- occasional typing of personal letters by a company's secretary,
- occasional personal use of an employer's copying machine, provided that the employer exercises sufficient control and imposes significant restrictions on the personal use of the machine so that at least 85 percent of the use of the machine is for business purposes,
- occasional cocktail parties, group meals, or picnics for employees and their guests,
- traditional birthday or holiday gifts of property (not cash) with a low fair market value,

- occasional theater or sporting event tickets,
- coffee, doughnuts, and soft drinks,
- local telephone calls,
- flowers, fruit, books, or similar property provided to employees under special circumstances (e.g., on account of illness, outstanding performance, or family crisis).

No dollar limit is placed on any of these examples.

I hope this information is helpful. If we can assist you further, please

my staff. can be reached at

of

Sincerely,

Nancy J. Marks
Division Counsel/Associate Chief Counsel)
(Tax Exempt & Government Entities)

cc: The Honorable Richard Shelby