

When Cash is not King: Holiday Gifts as “De Minimis” Fringe Benefits

by Anna Mikhaylina on December 15, 2022

To celebrate the holiday season, this post highlights the tax consequences of employer-sponsored holiday perks such as gift cards, turkeys, hams and gift baskets. Under the current tax rules, employers may give infrequent low value gifts of property or services to employees on a tax-free basis.¹ Cash and cash equivalents, however, constitute taxable income to the employee.²

As a rule, fringe, or incidental, benefits are considered part of an employee’s gross income as a type of compensation for services, similar to wages. Section 132 of the Internal Revenue Code (the “Code”) and related Treasury Regulations establish many exceptions to the rule, including an exception for “de minimis” fringe benefits – items or services nominal in value and historically used for holiday gifts to employees.³

As early as 1959, an IRS revenue ruling permitted tax-free treatment of “a turkey, ham, or other items of merchandise of similar nominal value, distributed by an employer to an employee at Christmas, or a comparable holiday, as part of a general distribution [...] as a means of promoting their good will.”⁴ The revenue ruling also stated that the favorable tax treatment does not apply to “cash, gift certificates, and similar items of readily convertible cash value.” Gift cards are treated the same as cash.

Even with the emergence of the robust gift card industry, the revenue ruling remains relevant today. To qualify as a tax-free de minimis fringe benefit, a gift from an employer must be of nominal value, infrequent, and not similar to cash. Treasury Regulations under Section 132 of the Code explain that the term “de minimis fringe” includes both property

¹ The 2022 edition of the IRS [Fringe Benefits Guide](#) explains that

“The law does not specify a value threshold for benefits to qualify as de minimis. The determination will always depend on facts and circumstances. The IRS has given advice at least once, in 2001, that a benefit valued at \$100 did not qualify as de minimis. However, this technical advice addresses a specific situation and cannot be relied upon in addressing another specific situation.”

² There is, however, a limited exception for meal money under Treasury Regulation §1.132-6(d)(2)(i)(C).

³ Among other types of fringe benefits that may be excluded from employee’s gross income are qualified employee discounts, working condition fringes, qualified retirement planning services, and certain employee achievement awards and prizes.

⁴ Rev. Rul. 59-58, 1959-1 C.B. 17.

and services “the value (considering how frequently similar benefits are provided) of

which is so small as to make accounting for it unreasonable or administratively impracticable.”⁵ The Treasury Regulations provide that de minimis fringe benefits include “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; flowers, fruit, books, or similar property provided to employees under special circumstances.”⁶

Notably, the Treasury Regulations specify that cash is not excludable from income even when it is provided to purchase property or services that would be excludable as a de minimis fringe benefit if provided in kind.⁷ For example, when an employer provides cash to an employee to buy a theater ticket, the cash is not excluded from the employee’s income as a tax-free de minimis fringe benefit, but if the employer gives an employee a theater ticket, it is excluded (if all other requirements are satisfied).

The takeaway from this post is that the tax rules treat cash and noncash gifts from the employer very differently. Gift cards and cash are always taxable income to the employee, whether it is just another Monday or New Year’s Eve. Infrequently distributed, low value gifts of property or services may qualify as tax-free under the exception for de minimis fringe benefits.

If you have questions regarding de minimis fringe benefits described in this post, or any other aspect of providing fringe benefits, please contact any member of [Verrill’s Employee Benefits & Executive Compensation Group](#).



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⁵ Treasury Regulation § 1.132-6(a).

⁶ Treasury Regulation § 1.132-6(e)(1).

⁷ Treasury Regulation § 1.132-6(c).