

TAXABLE BENEFITS: HOUSING
(Internal Revenue Code (IRC) section 61)

EFFECTIVE DATE: August 1, 2008 (Projected)

POLICY ISSUED FROM: Office of the Controller

BACKGROUND: Housing provided to employees and non-employees for free or at a discounted rate may be deemed a taxable benefit. The University owns several houses and operates apartment complexes on or near campus that are available for rent subject to availability. The housing is often utilized to provide lodging for visiting professors and new hires.

ISSUE: According to IRC section 61 employer-provided housing is a taxable benefit to employees and to non-employees except for those who meet the requirements of Code Sec. 119.

EMPLOYEE: In general, the amount to include on an employee's W-2 as a taxable fringe benefit is the amount by which the fair market value (FMV)* of the benefit exceeds the amount the employee paid after taxes for the benefit. Employer provided non-cash taxable fringe benefits are subject to all payroll taxes

EXCEPTION (1): the value of the lodging would be excludable from taxation only if **ALL** of the following apply:

- **Lodging is furnished on Ball State University premises** – (Treas. Reg. 1.119-1(c)(1) defines “premises” as “the place of employment of the employee”) The employee must conduct significant services for the employer at the location.
- **Furnished for the convenience of Ball State University** – Cannot be only for compensatory reasons.
- **Condition of employment** - The employee must be required to accept the lodging in order to enable him or her to properly perform the duties of his or her employment.

Additionally, the lodging must not be paid to the employee as an allowance or reimbursement or it will be fully taxable.

EXCEPTION (2): Qualified Campus Lodging. Qualified campus lodging is lodging furnished to you, your spouse, or one of your dependents by, or on behalf of, the institution or center for use as a home. The lodging must be located on or near a campus of the educational institution.

EXCEPTION (2): Qualified Campus Lodging (continued):

Adequate rent. The amount of rent you pay for the year for qualified campus lodging is considered adequate if it is at least equal to the lesser of:

- 5% of the appraised value of the lodging, or
- The average of rentals paid by individuals (other than employees or students) for comparable lodging held for rent by the educational institution.

If the amount you pay is less than the lesser of these amounts, you must include the difference in your income.

An appraisal must be conducted at least once every three years by an independent appraiser. The lodging and most current appraisal must be reviewed on an annual basis by an independent real estate professional except in the year of appraisal to determine the reasonableness of the appraisal in relation to market changes.

Example: Carl Johnson, a sociology professor for State University, rents a home from the University that is qualified campus lodging. The house is appraised at \$100,000. The average rent paid for comparable university lodging by persons other than employees or students is \$7,000 a year. Carl pays an annual rent of \$5,500. Carl does not include in his income any rental value because the rent he pays equals at least 5% of the appraised value of the house ($5\% \times \$100,000 = \$5,000$). If Carl paid annual rent of only \$4,000, he would have to include \$1,000 in his income ($\$5,000 - \$4,000$). *Publication 525 (2007)*

NON-EMPLOYEE: (Invited Visiting Professors, Guest Lecturers and Researchers) For invited guests who are US citizens, or resident aliens and who are receiving free or discounted lodging, the amount of the benefit is taxable to them on an IRS Form 1099. If the individual is receiving a stipend, the amount of the payment will also be reported on IRS Form 1099. However, direct reimbursements of qualified documented travel expenses are not taxable or reportable.

In the event the individual is a non-resident alien, the value of the housing and any stipends or honorariums paid to them will be subject to the restrictions of their visa classification and treaty restriction which may be subject to Federal Income Tax Withholding of up to 30% of gross receipts which includes the taxable benefit value of any free or discounted housing. Information on the eligibility and processing requirements for paying or providing a benefit to a non-resident alien will be handled on a case by case basis BEFORE an invitation is extended. Areas wishing to bring non-resident aliens such as International Visiting Scholars, to campus must consult with Ball State University's Rinker Center for International Programs for issues relating to eligibility and processing. Any questions regarding taxation should be forwarded to the Office of Controller and Business Services.

UNDER NO CIRCUMSTANCE shall any area of the University pay for such housing from a University account. Areas who wish to pay for these charges on behalf of the individual renting must do so from a Foundation account unless prior approval is given from the Office of Controller and Business Services. A determination will be made on a case by case basis.

See corresponding procedure COP001.

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