

# STATE OF COLORADO

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TO: Pat Romero, Coordinator  
Colorado Peak Performance

FROM: Clifford W. Hall   
State Controller

DATE: September 8, 1998

SUBJECT: *Taxability or Fiscal Rule Implications of Non-Monetary Incentives – Updated for Best Practices Distribution*

In a memorandum to you dated March 16, 1998 I provided information concerning the taxability of non-monetary incentives that were considered appropriate for peak performance awards by the Colorado Peak Performance Core Team. The purpose of this memorandum is to update that information and put it in a more concise format that can be included with other *Best Practices* information to all state agencies. This memorandum supersedes the memorandum of March 16, 1998.

The issue of the “taxability” or “reportability” of non-cash incentive awards for state employees has been the subject of considerable research and discussion over the past few years. For the most part the answer to this question when addressing generalities is; “It depends.” The *Internal Revenue Service Code* and other federal tax regulations governing reportability give general examples and then use terms such as “de minimis fringe”, “reasonable and necessary” and “job related” when addressing specifics.

The State Controller’s Alert #99, dated March 19, 1997 contains guidance on reporting both cash and non-cash awards for state employees at year-end. Alert #108, dated December 12, 1997 gave additional guidance on recording incentive awards for state employees. In summary, the guidance contained in the alerts places the responsibility on the agency controller to report to central payroll (through CPPS) any employee incentive award (cash or non-cash) reportable as income on an employee’s W-2.

The following are the criteria contained in the Alerts that are to be used by agencies in determining if a cash or non-cash incentive award is reportable for IRS purposes:

1. All cash awards are reportable on an employee’s W-2 regardless of dollar amount.
2. All non-cash awards greater than \$100 (individually or in aggregate) during the calendar year are reportable on an employee’s W-2. However, certain types of employee awards (e.g., tuition and fees, bus passes, employee parking) have special exemptions and limits.
3. Non-cash awards of \$100 or less are NOT reportable on an employee’s W-2, unless they exceed \$100 in aggregate during any calendar year.

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My staff has researched the listing that you provided and has furnished me with the attached. Where possible, specific IRS Regulation has been cited. Should you have questions concerning this memorandum or the attached listing, please contact John Ivy at (303) 866-3765.

Thank you.

Attachment

cc. Paulette Mark, HRS  
Dennis Wolfard, SCO  
John Ivy, SCO

## **W-2 Reportability of Non-Cash Incentives To Enhance Colorado Peak Performance**

It is an agency controller responsibility to report all cash awards received by an employee and all non-cash awards that are not considered to be de minimis on the employee's W-2 at year end. Non-cash awards totaling less than \$100.00 in value in a single calendar year are considered de minimis and are not reportable. Non-cash awards totaling \$100.00 or more in a single calendar must be reported. Please refer to the State Controller's Alert #99, dated March 19, 1997 and Alert #108, dated December 12, 1997.

- **Work Related Benefits**

1. Administrative Leave – Not reportable;
2. Flex Time / Flex Place - Not reportable;
3. First Option at State Auctions - Not reportable;
4. Child Care – Not reportable if de minimis, [IRC: Sec. 132 (e)];
5. Coffee/Tea/Bottled Water/Soda – Not reportable if de minimis, [IRC: Sec. 132 (e)];
6. Personal Long Distance Phone Calls - Not reportable if de minimis, [IRC: Sec. 132 (e)];
7. Office Upgrades - Not reportable if de minimis or if ownership remains with the state, [IRC: Sec. 132 (e)];
8. Financial Advising Service - Not reportable if de minimis, [IRC: Sec. 132 (e)];
9. Discount Interest Rates on Loans – Not reportable if de minimis, [IRC: Sec. 132 (e)];
10. Group / Team Activities - Not reportable if they are for bona fide state business purposes and not considered to be recreational or entertainment, [IRC: Sec. 132 (e)];
11. State Owned Housing – Not reportable, if de minimis, [IRC: Sec. 132 (e)];
12. Insurance – Health and dental insurance is not reportable, (IRC: Sec. 106);
13. PERA Service Credit - Reportable because it is considered cash, [IRC: Sec. 132 (e)]; and
14. Membership Dues - Not reportable if the individual membership dues are related to the job. Reportable if the individual membership dues are not job related.

- **Gifts**

1. Gifts Other than Cash – Not reportable if de minimis, [IRC: Sec. 132 (e)]; and
2. Gift Certificates - Reportable because it is considered cash, [IRC: Sec. 132 (e)].

- **Recreation and Entertainment Benefits**

1. Travel, Athletic or Entertainment Tickets - Not reportable if de minimis, [IRC: Sec. 132 (e)];
2. Meals – Not reportable if the amount is de minimis [IRC: Sec. 132 (e)];
3. Use of Exercise Equipment or Exercise Room Access on State Property – Not reportable; and
4. Use of a Facility – Not reportable if the fair market value of the apartment, condominium, cabin, hotel, motel, trailer or other facility is de minimis, [IRC: Sec. 132 (e)].

- **Educational Benefits**

1. Management Training / Supervisory Internships / Cross Training – Not reportable if related to the employee's current occupation; and
2. Tuition and Fees – The State may provide up to \$5,250 per calendar year, without the benefit being reportable, for an employee's education if it is for the benefit of the state. Any amount in excess of \$5,250 per calendar year is reportable. Any payment made by the State for an employee's graduate level courses, regardless of the dollar amount, is reportable, (IRC: Sec. 162).

- **Transportation Benefits**

1. ECO or Bus Pass – An employer may provide up to \$65 per month for an employee's ECO or bus pass without the benefit being reportable. Any amount in excess of \$65 per month is reportable, [IRC: Sec. 132 (f)];
2. Parking - An employer may provide up to \$170 per month for employee's parking without the benefit being reportable. Any amount in excess of \$170 per month is reportable [IRC: Sec. 132 (e)];
3. Use of a State Car - Not reportable if de minimis, [IRC: Sec. 132 (e)]. State Fiscal Rules do not allow for the private use of a state owned vehicle; and
4. Gasoline - Reportable because it is considered cash, [IRC: Sec. 132 (e)].