

STATE CONTROLLER TECHNICAL GUIDANCE

WORK CLOTHES AND UNIFORM ALLOWANCES AND REIMBURSEMENTS

1) AUTHORITY.

U.S. Code, Title 26, §§162(a), 262, and 274(d) (Internal Revenue Code)

26 CFR Ch 1, §1.62-2 – Reimbursements and other expense allowance arrangements

IRS Publication 5137 (2014) – Fringe Benefit Guide

2) PURPOSE OF THIS TECHNICAL GUIDANCE. The Office of the State Controller is providing this technical guidance to inform State Agencies and Institutions of Higher Education of tax issues related to work clothes and uniform allowances and reimbursements.

3) DEFINITIONS.

a. Accountable Plan – An employer's reimbursement or allowance arrangement must meet all three of the following rules to be an accountable plan:

1. Business Connection - The expenses must have been paid or incurred by the employee while performing services for the employer,
2. Substantiation - The employee must adequately account for the expenses within a reasonable time to the employer, and
3. Returning amounts in excess of expenses - Any excess reimbursement or allowance amount must be returned to the employer within a reasonable time.

b. Internal Revenue Code – U.S. Code, Title 26, §§, et seq.

c. IRS Publications – Publications issued by the Internal Revenue Service, including without limitation the Internal Revenue Service cumulative bulletins.

d. IRS Regulations – The rules and regulations of the Internal Revenue Service/Department of the Treasury promulgated under the Internal Revenue Code.

e. Non-Accountable Plan - An employer's reimbursement or allowance arrangement does not satisfy one or more of the requirements of an Accountable Plan.

4) EXCLUSION FROM INCOME

a. Clothing and Uniforms – Clothing or uniforms are excluded from wages of an employee if they are:

1. Specifically required as a condition of employment,
2. Are not worn or adaptable to general usage as ordinary clothing, and
3. Satisfy the requirements of an Accountable Plan.

b. Cleaning – If the clothing qualifies as excludable, then reimbursements for the cleaning costs are also excludable.

c. Periodic Payments – Periodic allowance payments made to employees for the purchase and maintenance of specific articles of employer-required uniforms are not taxable to the employees to the extent that the allowances are used to pay for uniforms that are not adaptable to general use, and are not worn for general use, and the employees substantiate the expenses. If the employer does not require substantiation, the allowance is taxable as wages and subject to withholding when paid.

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5) INCLUSION IN INCOME

- a. **Non-Accountable Plan** – Any allowance or reimbursement received by an employee under a non-accountable plan is taxable to the employee.
- b. **Other Criteria Not Met** – Any allowance or reimbursement received by an employee for clothing or uniforms that are not specifically required as a condition of employment or can be worn or adaptable to general usage as ordinary clothing is taxable to the employee.

6) TAXES AND WITHHOLDING

- a. **Taxes** - If work clothes and uniform allowances and reimbursements are includable in income, taxes shall include federal withholding and Medicare withholding
- b. **Withholding** – Provided that payments for work clothes and uniform allowances and reimbursements are paid with regular pay, the State will use the aggregation method for the supplemental wages for work clothes and uniform allowances and reimbursements.

7) EXAMPLES

- a. **Reimbursement for Agency-Approved Clothing** – An agency identifies a selection of agency-approved clothing that is not worn or adaptable for general usage. Employees are required to wear this clothing as a uniform and the agency reimburses employees for uniform purchases. Because this meets the three requirements of: 1) required as a condition of employment, 2) not worn or adaptable to general usage, and 3) satisfies the requirements of an Accountable Plan, the reimbursements to employees for these purchases are not taxable to the employees.
- b. **Monthly Payments** – An agency is required to pay a fixed amount every month to certain employees for uniforms, which are specifically required as a condition of employment and are not worn or adaptable to general usage as ordinary clothing. There is no requirement that the employee accounts for the expenses within a reasonable time to the employer. Because the allowance does not meet the requirements of an accountable plan, the payments are included as wages to the employees even if the employer is required to make the payment.

- 8) **STATE EMPLOYEES IN EXECUTIVE BRANCH** – Fiscal Rule 2.5 Miscellaneous Compensation and Benefits (Perquisites) states that uniforms are not perquisites and agencies may reimburse employees for uniforms “so long as the uniform is worn as a condition of employment, is not suitable for everyday wear, is distinctive to a particular group, and serves as a means of identification.” Agencies shall not reimburse employees for clothing for everyday wear.

Robert Jaros, CPA, MBA, JD
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