

A Two-Part Series on Non-Taxable Benefits (Part 2)

The following is the second—the completion—of our two-part series on Non-Taxable Benefits. The first was issued earlier this month.

Uniforms and special clothing

Employees do **not** receive a taxable benefit when:

- you supply them with a distinctive uniform they have to wear while they carry out their employment duties; or
- you provide them with special clothing (including safety footwear) designed to protect them from hazards associated with the employment.

When you pay an **accountable allowance** (where receipts are required) to employees to buy uniforms or protective clothing, this amount is considered to be a reimbursement of expenses and **not** a taxable benefit.

If you reimburse your employees for the cost of protective clothing they bought and they did not have to support their purchases with receipts, the reimbursement is a **non-taxable benefit** if:

- the law requires employees to wear the protective clothing on the work site;
- employees bought the protective clothing; and
- the amount of the reimbursement is reasonable.

Professional membership dues

If you pay professional membership dues on behalf of your employees, there is no benefit to the employees if you are the primary beneficiary of the payment.

Whether you or the employee is the primary beneficiary is a question of fact. If you pay or reimburse professional membership dues because membership in the organization or association is a condition of employment, you are considered to be the primary beneficiary. As a result, there is no taxable benefit to the employee.

When membership is not a condition of employment, you as the employer are responsible for resolving who the primary beneficiary is.

Recreational facilities and club dues

The use of a recreational facility or club does not give rise to a taxable benefit to the employees in any of the following situations:

- You provide an in-house recreational facility or pay an organization to provide recreational facilities and the facility or membership is available to **all** employees. This applies whether you provide the facilities free of charge or for a minimal fee.

- You make an arrangement with a facility to pay a fee for the use of the facility, and the membership is with you and not the employee.
- It can be clearly shown that membership in a club or recreational facility is **principally** for your advantage rather than the employee's.

Tuition fees, scholarships, bursaries

When the training is mainly for your benefit, there is **no** taxable benefit whether or not the training leads to a degree, diploma, or certificate. A taxable benefit arises when the training is mainly for the employee's benefit.

- **Specific employment-related training**
Courses taken to maintain or upgrade employment-related skills are mainly for your benefit when it is reasonable to assume that the employee will resume his or her employment for a reasonable period of time after he or she completes the course. For example, tuition fees and other associated costs such as books, meals, travel, and accommodations that you pay for courses leading to a degree, diploma, or certificate in a field related to your employee's current or future responsibilities in your business are **not** a taxable benefit.
- **General employment-related training**
Other business-related courses, although not directly related to your own business, are taken mainly for your benefit. For example, fees you pay for stress management, employment equity, first aid, and language courses are **not** a taxable benefit.

If you paid (or reimbursed) tuition fees to employees and there is no taxable benefit according to the guidelines above, the employees are not entitled to claim the non-refundable tuition or education tax credit on their return for those fees. You should inform them of this.

Subsidized meals

If you provide subsidized meals to an employee (for example, in an employee dining room or cafeteria), these meals are **not** considered a taxable benefit if the employee pays a reasonable charge. A reasonable charge is one that covers the cost of food, its preparation, and service.

Cellular phone service

If you provide your employee with a cellular phone, the service is **not** taxable as long as the primary purpose is to help the employee carry out his or her duties.

Child care expenses

Child care is **not** taxable if all of the following conditions are met:

- the services are provided at the employer's place of business;
- the services are managed directly by the employer;
- the services are provided to all of the employees at minimal or no cost; and
- the services are not available to the general public, only employees.

Internet service at home

If you provide your employee with Internet service at home, the service is **not** taxable as long as you are the primary beneficiary of the service. If the employee is the primary beneficiary, the cost of the service, including connection fees, should be included in the employee's income as a taxable benefit.

Discounts on merchandise and commissions on certain sales

If you sell merchandise to your employees at a **discount**, the benefit they get from this is not usually considered a taxable benefit.

However, discounts are considered taxable when:

- a special arrangement is made with an employee or a group of employees to buy merchandise at a discount;
- an arrangement is made that allows an employee to buy merchandise (other than old or soiled merchandise) for less than your cost; or
- when there is a reciprocal arrangement between two or more employers so that employees of one employer can buy merchandise at a discount from another employer.

This 'n That at Logan Katz...

Please watch for your invitation to our next breakfast seminar—the final one of our 2007-2008 series—which will feature Neil Milton, Sandy Pollack and Gary Katz who will discuss "Functions of a Shareholders' Agreement".

Questions or comments?
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