



### **De Minimis Fringe Benefits, Stipends, Etc**

Stipends, gifts, etc. paid to employees as “rewards” for additional services performed, is a very common practice. The IRS considers these payments *de minimis fringe benefits* and excludes them from an employee’s income if the payment meets the definition of *de minimis*. These are employer provided products or services that have such a minimal value that accounting for the benefit would be unreasonable or ‘administratively impractical’. In determining whether the value of a particular benefit or stipend is small enough to fall into the *de minimis* category, Internal Revenue Service regulations provide that, in addition to the actual value of the benefit, the frequency by which the employer provides the benefit should also be taken into account. The IRS does not establish a dollar amount guideline for what is and what is not considered *de minimis*.

The frequency with which *de minimis* fringe benefits are provided must be measured by reference to the frequency with which the benefits are provided to specific individuals and not the frequency with which the employer provides the benefits. If administratively impracticable, frequency may be measured by reference to the employer’s practices in providing benefits to all employees, and not individual employees. However, this is not the preferred method by the Internal Revenue Service.

The *de minimis* fringe benefit exclusion is applicable to any recipient of a fringe benefit, no discrimination rules apply to this benefit. However, the exclusion from income does operate as a “cliff”. In other words, if an employer provides a benefit that exceeds either the value or the frequency limitations for *de minimis* fringe benefits, the entire amount of the benefit is included in the employee’s income, not just the portion that exceeds the *de minimis* limits. The Internal Revenue Service’s reporting threshold of \$600 for Form 1099 purposes has no bearing on the *de minimis* determination of these types of gifts and awards.

In the case of occasional meal money or taxi fare for overtime work, the Internal Revenue Service clarifies the definition of “occasional” as “not regular or routine”, but does not attempt to set a maximum limit to such meals and commutes of a certain number of times per month. Each individual gift has to be examined individually in order to make the *de minimis* determination.

### **Law and Authority**

Section 132(e)(1) of the Internal Revenue Code, Treasury Reg. 1.132-6(b) and 1.132-6(d) and 1.132-6(c), Technical Advice Memorandum 9148001, Private Letter Ruling 9442003.

### **Conclusion**

The fundamental reason that these benefits are excluded from income is the administrative difficulty in being able to account for them. The detailed recordkeeping needed for tracking these payments would make it “administratively impracticable” for the employer to account for and include in the employee’s income.