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AccountAbility

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for June 2015

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IRS Rules Regarding Gifts — by Diane DeClercq

The matter of gifts for employees is a touchy one where taxes are concerned. The IRS rules regarding taxes applicable to employee gifts have changed many times since the 1980's. In general, the employee receiving a gift has more taxation and the employer giving the gift has more bookkeeping and recording issues.

This month, I explain the difference between "tangible" (which are taxable) and "intangible" (which are tax free) gifts and the tax consequences of each. Some gifts can be claimed as a deductible expense, while others cannot.

Intangible Gifts

Cash is the most common intangible gift subject to taxation. Cash gifts include gift cards and gift certificates since they are treated as cash at merchant locations.

As an employer, you can deduct a maximum of \$25/cash gift per person. If this amount seems low, it is! It was established in 1954 and has never been adjusted.



If more than \$25 is presented to an employee, then the balance of the value is included on a W-2 and taxed as compensation.

While compensation is a deductible operating expense, you must pay

additional payroll taxes (unemployment and FICA taxes) on these gifts to your employees. As such, the amount over \$25 is recorded as compensation and your employee is subject to local and federal withholding taxes on the amount.

Intangible gifts to clients are not subject to the compensation tax rules however you may only deduct \$25 as a business expense.

Tangible Gifts

These include holiday turkeys, adult beverages, gift baskets, t-shirts or other physical items that may be given to employees or a client.

If these are gifts of minimal value, such as a holiday turkey or an inexpensive bottle of wine, they generally fall under the IRS's *de minimis* rule and are not taxable. The rule states that if an employer provides an employee with a product or service that costs so little that it would be unreasonable for the employer to account for it, the value is not taxable income.

Remember, cash is labeled as intangible and does not fall under the *de minimis* rule.

What's considered minimal? Most tax advisers say tangible items valued between \$25 to \$75 in total may be given to an employee in a single year.

Gifts greater in value than those falling under the *de minimis* rule are limited to the maximum allowable deduction of \$25 of the value of the gift unless the gift is given to benefit a group of individuals.



For example, you spend \$100 to have a basket of holiday treats delivered to your accountant's office. The basket is a company-wide gift for the benefit of all employees in that office. The entire \$100 is allowed as a deduction. On the other hand, if you sent that same basket to your accountant individually, then only \$25 is a deductible business expense.

Tangible gifts are not treated as compensation, neither withholding nor income tax is due from the client, employee or employer.

Confused yet? It gets better. Next month I cover Meals & Entertainment and Uniforms.

For more information about how our Accounting Services can make a strategic impact on your business call Dan Isard at 800-426-0165.

