

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM  
BUSINESS PROCEDURES MANUAL

Procedure 5.14  
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Effective Date: January 1, 2014  
Supersedes: Procedure 5.14 dated May 1, 2012  
Applies To: System Office and Colleges  
Procedure Responsibility: KCTCS Payroll

## **Taxable and Nontaxable Fringe Benefits**

### **Sections:**

- 5.14.1 – General
- 5.14.2 – De Minimus Fringe Benefits
- 5.14.3 – Clothing
- 5.14.4 – Prizes and Other Giveaways
- 5.14.5 – Tuition and Course Related Items

### **Section 5.14.1 – General**

The United States Internal Revenue Service (IRS) has guidelines to determine whether items and services received by an employee from an employer are considered a taxable benefit to the employee. The determination of taxability is dependent on certain conditions. In general, to be excluded from taxation the item must be an award of tangible personal property that 1) does not include cash or a cash equivalent, 2) be based on the length of service in 5 year increments, and 3), be presented during a meaningful presentation. Many of these items are indicated in the table for allowable goods and services - see 4.10 - Special Purchase Authority, Section 5 - Restricted Goods and Services Table.

Overall, employee fringe benefits (items like gift certificates, fruit baskets, game tickets, meals, clothing, etc. are given to the employee by the employer) are presumed income to the employee, unless specifically excluded within the IRS' internal revenue code. Further, the IRS has determined that taxes are to be withheld on items and/or services given to employees even when the employer did not purchase the item or service, but distributes them with the intent of benefiting their employee(s), i.e., items donated from vendors passed on to your employees.

The college president or designee and/or KCTCS cabinet member or designee shall approve the purchase and/or distribution of items and/or services to employees, especially in instances where the item/service may be by IRS code taxable to the employee. For purposes of approval authority, the delegation by the college president or KCTCS cabinet member to his/her designee should be in writing and retained for purposes of audit documentation. To help ensure proper accounting of employee benefits per IRS code, employees are encouraged to contact their local business office for counsel prior to purchasing any items to be distributed to employees with KCTCS funds regardless of fund source.

### **Section 5.14.2 – De Minimus Fringe Benefits**

The IRS has determined some benefits can be de minimus in nature. To be a de minimus fringe benefit, the benefit must be non-cash, provided infrequently, be of nominal value and administratively difficult to account for in value and procedurally.

Awards like employee-of-the-month may qualify for de minimus treatment if the awards are limited to mugs, key chains, certificates, mentions of employee newsletters, etc. Items like gift cards qualify as cash equivalents and therefore cannot be treated as de minimus. The IRS has not defined a monetary amount as being de minimus when cash or cash equivalents are involved. For purposes of this business procedure, KCTCS has defined de minimus as ten dollars (\$10.<sup>00</sup>).

### **Section 5.14.3 – Clothing**

#### **A. Clothing Exempt from Taxation**

The IRS has determined that certain items purchased may be considered exempt (non-taxable) income to an employee if they are awarded as part of an accountable plan based on safety record or years of service. Currently, KCTCS does not have an accountable plan for awards. However, in certain instances, protective clothing and uniforms may meet the criteria and be exempt from taxation. Please also see items indicated in the table for allowable goods and services - see business procedure 4.10 - Special Purchase Authority, Section 5.

#### **[Business Procedure 4.10](#)**

##### **1. Protective Clothing**

Protective clothing should follow the US Office of Safety and Health Administration (OSHA) Code of Federal Regulations (CFR) (29 CFR 1910.132.d) with the employer making an assessment of the hazards of the workplace. In such an instance where protective clothing is purchased the supervisor shall identify and justify the specific items of clothing that are required for the safety of the employee in performing the job. It is not enough that the clothing is distinctive in nature and low cost, it must serve as a matter of employee protection and safety under OSHA rules to qualify as exempt from taxation. Examples of such clothing might include face masks, heat resistant gloves, hard hats, or steel-toed work boots. Clothing may not be supplied as a basic living requirement and must be related to the specific employment functions and duties of the job. Said clothing when purchased shall be made in a cost effective manner.

## 2. Uniforms

Uniforms in the traditional sense (i.e., matching top and bottom often worn by mechanical, janitorial staff, or other service staff like UPS, Fed Ex, etc. ) with the requirement to be worn on the job and only on the job that provide a professional and visual image recognition as the personnel perform their assignments may qualify as being exempt from taxation. In such an instance, the clothing should help provide safety and recognition for the employee, students and staff while on duty and serve as a link to security on campus. Examples of such uniforms might include service personnel in maintenance and operations or environmental services areas and campus security.

In order for the amounts to be nontaxable, work clothes and uniform allowance reimbursement must meet the following accountable plan rules:

1. Be specifically required to be worn as a condition of employment
2. **Not** be adaptable to general usage as ordinary clothing
3. **Not** worn for general usage, but be for a specific job related duty where safety and protection is of concern (the clothing must not be suitable for taking the place of regular clothing).

Thus for purposes of visual identification and campus safety and protection, KCTCS has determined that security/maintenance and operations/environmental services personnel may be provided clothing as a nontaxable benefit as a uniform when:

1. The clothing is required to be worn daily as a condition of employment
2. The clothing includes the employee's name, department and college logo, and
3. The clothing is not to be worn outside of the place of employment as casual wear.

Clothing items that are not a part of the actual uniform and costing greater than \$10.<sup>00</sup> cannot be considered de minimis. Such clothing is taxable to the employee even if the clothing is worn while at work, i.e., polo shirt and pant even if the same color do not meet the IRS requirements and do not include the employee's name, department and college logo and is not a requirement to be worn daily as a condition of employment.

### B. Clothing not Exempt from Taxation

The purchase of clothing by a department for the purpose of professional image and visual recognition does not exempt the clothing from being taxable to the employee. When clothing is purchased for employees, the purchase shall have the following:

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- 1) Explanation as to the business necessity for the clothing and explanation as to why multiples of the clothing is being purchased (required).
- 2) Explanation, approval and receipt retained and filed with the pay documents and BA8 Form to substantiate the approval and serve as audit documentation.
- 4) Copies of the pay document and names of the employees and amount of purchased items reported to the college and/or system office payroll office for purposes of withholding applicable tax.

Regardless of purpose or the fund source, the purchase of clothing is to include the bona fide business purpose as to the necessity of the expense. The purchase of clothing should be related to the specific employment function and duties of the job necessitating the wearing of the clothing versus purchased as an informal work uniform.

When the determination that the clothing to be given to employees each local payroll office (college or System Office) is to complete the following steps to ensure applicable taxes are withheld as to the value of the item (benefit) given to the employee.

1. The local business office (purchasing) is to provide the local payroll office a copy of the procurement document, i.e., purchase order, ProCard receipt, or check request form (BA 1) on the items purchased. For purposes of tax calculation, determination as to the value of each item given to each employee and the total value of the award for each employee shall be compiled.
2. On the next available payline, the payroll office staff shall enter the total dollar value of the taxable item(s) using the TXB earnings code to each employee receiving the awarded benefit, i.e., polo shirt, wind breaker, etc. Clothing items deemed taxable will be taxed at 100% of the value (unit cost) of the item. Applying the gross amount of the item's value will enable the appropriate taxes to be withheld from the employee's pay and increase the taxable gross to the employee.
3. If an employee terminates without the amount being loaded on a paycheck, a college account string is to be charged for FICA taxes for the employee, and the employee's W-2 form will be corrected to reflect the taxable amount in taxable wages. In such an instance, college staff must contact KCTCS' Director of Payroll for additional instruction.

KCTCS Accounting shall provide KCTCS Payroll with a report for all activities for account code 50250 twice annually - March 31 and October 31 of each year for review and to help ensure that these special purchases are being taxed as applicable.

#### **Section 5.14.4 – Prizes and Other Giveaways**

Giveaways and prizes provided to employees for outstanding achievement, money saving suggestions, wellness incentives, marketing campaigns, competitions, etc. are

generally included in the employee's income. If the award is included in the employee's income, the dollar value of the award is subject to federal income tax withholding, state income tax withholding, social security and Medicare taxes and some local taxes. This includes giveaways to employees for charitable campaigns such as the United Way and includes any item, service or product deemed not to be de minimis, e.g. for purposes of KCTCS greater than \$10. Further, the IRS has determined that taxes are to be withheld on items and/or services even when the employer did not purchase the item or service, but distributes the item or service as a pass through to the employee. In such an instance please contact KCTCS' Director of Payroll for additional instruction.

#### **Section 5.14.5 – Tuition and Course Related Items**

On occasion in the best interest of KCTCS tuition for an employee for a specified program to a college outside of coverage under KCTCS HR Policy 2.10 Faculty and Staff Tuition Waivers may be made. Tuition paid for an employee outside of the established KCTCS program is not covered under section IRC (Internal Revenue Code) 127 and is a taxable benefit to the employee. Similarly, reimbursement to the employee for course books, fees by outside organizations charged for classes, or other related course items are not covered under IRC 127 and are a taxable benefit to an employee.

**End of Procedure**