

S-Corporation Fringe Benefits

Presented by:

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Learning Objectives

At the end of this course, you will be able to:

- Define taxable and nontaxable fringe benefits
- Determine the impact of the TCJA on fringe benefits
- Apply the 2% Shareholder rules to fringe benefits



Overview

- A fringe benefit is compensation or a benefit received by an employee (or partner or subcontractor)
- S-Corporations can offer employees the same fringe benefits as other entities
- Taxable fringe benefits are reported on the W-2 or the 1099 for independent contractors and deducted by the employer

Overview

- Non-taxable fringe benefits are “qualified”, not reported by employees and deducted by the employer in most circumstances
- Employee compensation must be reasonable in relation to the services rendered and includes fringe benefits

Accountable Plans

- Allowance or reimbursement policy
- Used to reimburse auto expenses, travel, meals and entertainment
- Non-taxable to employee if these 3 rules are met:
 - Business connection to expenditure
 - Employee accounting within 60 days
 - Excess returned within 120 days

Non-Accountable Plans

- No accounting needed
- 100% taxable to employee
- TCJA – employee business expenses no longer deductible on 1040
- Move to accountable plan!



2% Shareholder Employee

- 2% shareholders are treated as partners - IRC Sec 1372
- Family attribution rules – IRC Sec 318
 - Members of a 2% shareholder's family include spouse, children, grandchildren, and parents are considered to own the stock

2% Shareholder Employee

- Fringe benefits are taxable as wages with some exceptions:
 - Contributions to qualified retirement plan
 - Discounts, on premise athletic facilities, de minimis fringe, retirement planning services
 - Educational assistance programs – sometimes!
 - Dependent care assistance programs – sometimes!
 - Working condition fringe – sometimes!

Non Discrimination Rules

- Fringe benefits offered to all employees
- Highly compensated employees (HCE) – definition varies
- Key employees



Fringe Benefits: Awards

- Awards, IRC Sec 74(c)
 - TCJA – only tangible personal property
 - Excludable annual amount is \$1600 per employee; \$400 if not qualified plan award
 - 2% shareholders: taxable wages, W-2 Box 1, 3 & 5

Fringe Benefits: Athletic Facilities

- Athletic Facilities, IRC Sec 132(j)

- Excludable for employees, spouses, dependents, and 2% shareholders



- Located on premises owned or leased, and operated by employer
- Does not apply to health club membership

Fringe Benefits: Cafeteria Plans

- Cafeteria Plans, IRC Sec 125
 - Written plan that allows an employee to choose between compensation or a qualified benefit excluded from wages
 - 2% shareholders may not participate in the plan; If they participate, they disqualify the plan!

Fringe Benefits: Cafeteria Plans

- Cafeteria Plans, IRC Sec 125
 - Includes: Accident & health benefits, disability insurance, adoption assistance, HSA contributions, dependent care, group term life insurance, 401(k) pension plans, FSAs
 - Simple cafeteria plans
 - Carryover rule: additional 2 ½ months or \$500

Fringe Benefits: Dependent Care

- Dependent Care Assistance, IRC Sec 129
 - Written plan for amounts paid or incurred for dependent care assistance
 - Excludable annual amount is \$5,000 per employee including 2% shareholders
 - May not provide >25% of benefits for >5% shareholders-employees



Fringe Benefits: Educational Assistance

- Educational Assistance, IRS Sec 127
 - Written plan for cost of educational assistance
 - Excludable annual amount is \$5,250 per employee, including 2% shareholders
 - May not provide >5% of benefits to shareholder-employee owners

Fringe Benefits: Group Term Life Insurance

- Group Term Life Insurance, IRC Sec 79
 - Must be term life and non-discriminatory
 - Excludable amount is cost of the first \$50,000
 - 2% shareholders: taxable wages, W-2 Box 1, 3 & 5



Fringe Benefits: Health Benefits

- Health Benefits
 - Written plan, non-discriminatory
 - Excludable for employees; 2% shareholders must include as wages, W-2 Box 1
 - Employers with 50 or more employees (ALEs) must offer health insurance
 - HSA contributions, excludable, 2% shareholders must include as wages, W-2 Box 1
 - HRA, IRC Sec 105

Fringe Benefits: Health Benefits

- Health Benefits

- Qualified Small Employer HRA, IRC Sec 106(g), 1/1/17
 - Allows small employers to reimburse medical expenses, including health insurance
 - 2% shareholders may not participate, nor can family members of owners
 - Excludable amount is \$5,150 (\$10,450 family) for 2019

Fringe Benefits: Lodging

- Lodging, IRC Sec 119
 - Provided on employer premises, for convenience of employer, and employee accepts it as a condition of employment
 - 2% shareholders: taxable wages, W-2 Box 1, 3 & 5



Fringe Benefits: Meals

- Meals, IRC Sec 119
 - TCJA – 50% deductible for the business if an on employer premises and for employer’s convenience
 - Excluded for employees; 2% shareholders: taxable wages, W-2 Box 1, 3 & 5
 - TCJA – De Minimis coffee, soda, snacks, also 50% deductible
 - Holiday parties and picnics?????



Fringe Benefits: Retirement

- Retirement Plan contributions, IRC Sec 401(c)1
 - Contributions to qualified retirement plans
 - Excludable for employees, including 2% shareholders



Fringe Benefits: Transportation

- Transportation Commuting Benefits, IRC Sec 132(f)
 - Qualified transportation benefits paid or reimbursed to employee
 - Includes passes for public transportation, commuter highway vehicle and parking
 - Excluded by employee limited to \$265/month (2019)
 - 2% shareholders: taxable wages, W-2 Box 1, 3 & 5

Fringe Benefits: Transportation

- Transportation Commuting Benefits, IRC Sec 132(f)
 - TCJA – not deductible for employer
 - TCJA – Bicycle commuting reimbursements no longer a non-taxable fringe



Fringe Benefits: Working Conditions

- Working Condition Benefits, IRC Sec 132(d)
 - Value of property or service provided to employees so they can perform their job
 - Excludable to employees including 2% shareholders
 - Employer provided cell-phones need substantial non-compensatory business reason
 - Job related education

Fringe Benefits: Working Conditions

- Working Condition Benefits, IRC Sec 132(d)
 - Employer provided company owned vehicle
 - Commuting value method: not for controlling employee
 - Cents per mile method
 - Lease value method



Fringe Benefits: Non-taxable Other

- De Minimis Benefits, IRC Sec 132(e)
 - Nominal value, not taxable including 2% shareholders
- No-additional cost service
 - Excess services such as airline tickets, hotel rooms
- Qualified employee discounts
 - Price reduction up to 20%

What We've Done the Last Hour...

- Defined taxable and nontaxable fringe benefits
- Determined the impact of the TCJA on fringe benefits
- Applied the 2% Shareholder rules to fringe benefits

For More Information

National Society of Accountants

More information is available at:

NSA Booth in the Vendor Hall

Or at the NSA table in the lobby

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