

Federal, State and Local Governments

Volunteer Firefighters

In general, reimbursements received by volunteer firefighters are wages subject to all employment taxes. This would include such items as point systems, reduction in property taxes and other cash or in-kind benefits. In addition, firefighters who are on call and work regularly but intermittently do not qualify for the social security and Medicare exception for emergency workers defined in IRC section 3121(b)(7)(F)(iii). This exception is only for temporary workers who respond to unforeseen emergencies, e.g. floods. When a worker who is termed a volunteer receives compensation, that compensation is wages subject to income, social security and Medicare tax if the worker is an employee (unless an exclusion applies). For instance, volunteer firefighters may not receive salaries, but they may receive amounts intended to reimburse them for expenses. Volunteer firefighters can receive tax-exempt reimbursements for their expenses, but these reimbursements must be under an accountable plan within the meaning of IRC section 62(c) and regulations. An accountable plan is one that is designed to reimburse only actual, substantiated business expenses. An accountable plan must (1) require workers to substantiate actual business expenses, (2) allow no reimbursements for unsubstantiated expenses, and (3) require that any amounts received that exceed substantiated expenses must be returned within a reasonable period. Amounts that are termed reimbursements but that are not paid under an accountable plan are subject to income and social security and Medicare taxes. The accountable plan requirements are explained in detail on pages 3 and 4 of this newsletter.



Uniforms and Work Clothes

If some employees receive a clothing allowance there are some things you should know

Remember that for a reimbursement of an expenditure to be part of an accountable plan, the expense must first be deductible on the employee's tax return.

These are the conditions under which an employee can deduct an expense for work clothing.

- 1) The clothing must be worn as a condition of employment.
- 2) The clothes are not suitable for everyday wear.

It is not enough that the clothing be distinctive in nature. The clothing must be specifically required by the employer. Nor is it enough that the employee does not, in fact, wear your work clothes away from work.

The clothing must not be suitable for taking the place of regular clothing.



Examples of workers who may be able to deduct the cost and upkeep of work clothes are: delivery workers, firefighters, health care workers, law enforcement officers, letter carriers, professional athletes, and transportation workers (air, rail, bus, etc.).

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Uniforms and Work Cloths (Continued from page 2)

However, work clothing consisting of white cap, white shirt or white jacket, white bib overalls, and standard work shoes, which a painter is required by his union to wear on the job, is not distinctive in character or in the nature of a uniform. Similarly, the costs of buying and maintaining blue work clothes worn by a welder at the request of a foreman are not deductible.

Under these guidelines, clothing worn by plain clothes police officers would not be deductible.

This is true even if the reimbursements are made as a result of a union negotiated contract.

Protective clothing. An employee can deduct the cost of protective clothing required in his/her work, such as safety shoes or boots, safety glasses, hard hats, and work gloves.



Examples of workers who may be required to wear safety items are: carpenters, cement workers, chemical workers, electricians, fishing boat crew members, machinists, oil field workers, pipe fitters, steamfitters, and truck drivers.

Accountable v. Nonaccountable Plans *Methods of Reimbursing Employees for Expenses*

Accountable Plans

A plan under which an employee is reimbursed for expenses or receives an allowance to cover expenses is an *accountable* plan **only** if the following conditions are satisfied:



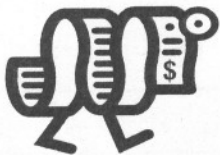
- there must be a business condition for the expenses;
- the expense must be in connection with performance of services as an employee
- the reimbursement must be for an expense the employee could deduct on his/her tax return

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Accountable v. Nonaccountable Plans (Continued from page 3)

- the employee must either substantiate or be deemed to have substantiated the expenses;
 - Generally substantiation consists of receipts and/or cancelled checks and invoices that show the nature and amount of the expenditure
 - Expenses deemed to have been substantiated are such things as using the mileage allowance rate (48.5 cents per mile) rather than actual expenses for operating a vehicle or use of a per diem rate for overnight travel rather than requiring receipts for meals
- the employee must return to the employer amounts in excess of the substantiated (or deemed substantiated) expenses within a reasonable time.
 - there are 2 methods of determining a reasonable time.
 - Periodic Statement
 - a statement from the employer is given to the employee **at least** quarterly setting forth the amounts paid under the plan in of the substantiated amount and requesting the employee either substantiate or return excess amounts within 120 days of the statement date
 - Fixed Date
 - Advance Payments – 30 days before the reasonably anticipated expenses are paid or incurred
 - Substantiation – 60 days after expenses are paid or incurred
 - Return of excess amounts – 120 days after expenses are paid or incurred



Amounts paid under accountable plans are not income to the employee and are not shown on Form W-2.

Remember that all of the requirements must be met in order for it to be an accountable plan!

Nonaccountable Plan

A nonaccountable plan is a reimbursement plan or policy which does not meet all the requirements for an accountable plan.

Amounts paid under a nonaccountable plan are income to the employee and must be included in wages with appropriate tax withholdings.

An employer can have an accountable plan for some items, and a nonaccountable plan for others.