Fringe Benefit Issues for Colleges and Universities

HIGHER EDUCATION TAXATION INSTITUTE
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JOEL LEVENSON, UNIVERSITY OF CENTRAL FLORIDA

TOBY RUDA, KPMG LLP

AMY WILLIAMS, DUKE UNIVERSITY

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Objectives

- Explain the rules regarding the taxability of certain fringe benefits
- Provide real examples of questions from the IRS regarding fringe benefits
- Explain common issues raised

New IDR Management Process

- New IRS guidance for use by TE/GE agents on issuing Information Document Requests (IDRs)
  - Involve organization in IDR Process
  - Discuss issue and information needed before issuing IDR
  - IDR must clearly state the issue and requested information
  - Agreement by examiner and organization on response date prior to issuing IDR
  - Focuses on timeline of IDR, complete responses and enforcement process
- Effective April 1, 2017

TEGE 04-1116-0028

IRS questions on IDRs - General

- Provide a copy of the Employee handbook in effect during the year under exam.
- Identify the benefits that are included on From W-2 as income in Box 1, and identify the benefits, which are or are not subject to FICA.
- Provide a listing of the top five officers and copies of their Form W-2s and the W-2 earnings data for the year under exam. The requested data should include a breakdown by regular salary, imputed income, and all other forms of compensation.
- Other IRS questions – has the entity paid employee expenses?

Gross Income

"[E]xcept as otherwise provided . . . gross income includes compensation for services, including fees, commissions, fringe benefits, and similar items."

- Benefits provided to family members are taxed to the employee
- Valuation – the fringe benefit is included at the arms-length value as if the employee purchased the benefit (less any amount the employee actually paid for the benefit).

Treas. Reg. § 1.61-21(a)(1)

Wages

- "[T]he term 'wages' means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash." Code § 3121(a); see also § 3401(a).
- The employer must generally withhold taxes by the end of the calendar quarter in which the benefit is provided.
  Treas. Reg. § 31.3501(a)-1T(Q/A-1).
  - However, IRS guidance provides that non-cash fringe benefits can be withheld at any time during the calendar year. Also provides a "lag method" for benefits from the last quarter.