

Analyzing Fringe Benefits

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Starting Point – everything is taxable income!

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

Treas. Reg. § 1.61-21(a)(1)

**TAXABLE
INCOME**



IRS Position?



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IRS Position

Taxable income

- What is taxable income?
- Almost all forms of income are taxable

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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).

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Employee “Gifts”



Comr. v. Duberstein, 363 U.S. 278 (1960)
IRC 102(c)(1)

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