

Small Perquisites Can Cause Big Trouble

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Employers often provide employees with special rewards or prizes as a means to boost morale, recognize achievements, acknowledge long-term service, and retain employees. These special perquisites can take on many forms as anything from holiday turkeys to gift cards to allowing employees to take home the employer's products for free or at a discount. While these small additional benefits may seem like "gifts" from the employer to the employee, what employers sometimes fail to realize is that there are no "gifts" in the employment context, regardless of the employer's intent. Generally, anything provided to an employee by an employer is includable in the employee's taxable income unless specifically excluded under the Code.

Common exclusions for perquisites to employees include: no-additional-cost services, qualified employee discounts, working condition fringes, and *de minimis* fringes. All of these exclusions have specific requirements and rules to qualify for the exclusion. For example, for a benefit to qualify as a *de minimis* fringe, it must be a benefit that, considering its value and the frequency with which it is provided, is so small as to make accounting for it unreasonable or impractical. However, in general, because cash rewards and gift cards are easy to account for even if given in very small amounts as they are never excludable as *de minimis* fringe benefits. Further, these small benefits, if taxable, may cause problems under the employer's other benefit plans. For instance, if the employer sponsors a qualified retirement plan, any taxable perquisites may need to be included in the plan's definition of compensation (and may be eligible for deferral and matching contributions). Health plans are also not immune from concern. For example, if the benefit is a gift card provided to encourage participation in a wellness program, the gift card may need to be treated as taxable compensation.

Employers should review the various perquisites they provide to their employees to ensure any compensation is being properly reported and treated appropriately under their benefit plans. Determining the proper treatment of these perquisites can prevent these small rewards from causing big trouble.