



GSU Taxable Merchandise Fringe

Policy Statement

This policy follows the University System of Georgia (USG) Business Procedures Manual 5.3.17 Taxable Fringe Benefits, except where identified in the section labelled GSU Procedures below. The USG has defined a fringe benefit as any property or service that an employee (including certain independent contractors) receives in lieu of, or in addition to, regular compensation. All employees should adhere to the full Business Procedures Manual in addition to the GSU Procedures. For additional information, refer to the USG Business Procedures Manual regarding Taxable Fringe Benefits -

https://www.usg.edu/business_procedures_manual/section5/C1235/

This procedure specifically addresses taxable merchandise/clothing.

Taxable Fringe Period

The taxable fringe tax year is from November 1st – October 31st.

Taxable Fringe Procedure

The GSU Departments that distribute GSU Logo merchandise will send the Payroll Department a file with the taxable fringe information for the employees who received the merchandise every month by the 10th of the month for the preceding month. Payroll will add the taxable fringe benefits to the last biweekly and monthly checks in those months and withhold federal, state and FICA taxes. Some taxable fringe benefits for employees are often large amounts, this procedure allows GSU to spread those benefits and extra taxes taken over several pay periods throughout the year.

Taxable Clothing Identification

1. Review and understand the University System of Georgia BPM Section 5.3.17 Taxable Fringe Benefits found in Appendix A and on the USG website - https://www.usg.edu/business_procedures_manual/section5/C1235/ which references the guidance provided under the IRS publications IRS Pub. 15-B Employer's Tax Guide to Fringe Benefits and IRS Pub. 5137 Fringe Benefit Guide.
 - a. Per the USG policy, clothing items of nominal value (\$75 or less cumulative annually/calendar year) and provided infrequently (no more than two times per calendar year) may be excluded from taxation as a de minimis fringe benefit. If either the value or frequency limits are exceeded, the entire value of the benefit (not just the excess amount) will be is taxable. The following are examples of

clothing items that may be excluded as de minimis fringes:

- Low-value clothing bearing the University or department name.
 - T-shirts provided to employees to wear to promote a campus event.
- b. An additional taxation exclusion is property or services provided by an employer that, if paid by the employee, would be deductible as an ordinary and necessary business expense. The following three criteria for the cost of clothing/uniform to be considered an ordinary and necessary business expense are as follows:
1. the clothing/uniform is required or essential in the individual's employment.
 2. the clothing/uniform is not suitable for general or personal wear; and
 3. the clothing/uniform is not so worn (for general or personal wear).
2. Communicate to all Department Heads responsible for overseeing and/or initiating GSU logo merchandise distribution decisions to ensure proper understanding of the above-mentioned tax rules and guidance.
3. Reports are available to identify exempt and non-exempt merchandise purchases.
- a. Run a query in Spectrum for the following accounts:
- 714200 – S&M Exempt Clothing
 - 714210 – S&M Non-Exempt Clothing

It is best to run the query for these accounts once a month or quarter depending on the number of items purchased.

- b. For all items, review transactional details to verify that clothing purchases are coded correctly. Please refer to appendix A for more information on classifying items as exempt and non-exempt. Make reclassifications as necessary. For items determined to be Non-Exempt Clothing purchases, complete the Taxable Merchandise Reporting Form. Submit form through Service Now ticket (see Appendix B for instructions for submitting a ServiceNow ticket). For the taxable fringe to be included in the proper taxable year, all forms must be submitted by November 24th. It is recommended that the forms are submitted monthly so that employees are not disproportionately taxed for all taxable merchandise in December.

The needed information is noted below -

- Description of Provided Merchandise
- Employee Name
- Employee OneUSG ID (7 digit numeric)
- Date of Distribution
- Purchase Price of Merchandise (per unit)
- Quantity (i.e., Number of Units Provided)
- Is this merchandise required to be used during work hours? (Yes/No)
- Is this merchandise adaptable for general usage? (Yes/No)

- If the merchandise is not adaptable for general usage, provide an explanation as to why not.
- Is merchandise provided for safety purposes? (i.e., Safety Shoes, Goggles, etc.) (Yes/No)

Record Retention

5 years

Responsible University Administrator: Vice President for Finance & Administration

- Policy Owner: Payroll
- Policy Contact: Sharreen Boone
- Phone Number: 404-413-3302

Procedure Dates

- Effective Date: 09/01/23

Appendix A

5.3.17 Taxable Fringe Benefits

(Last Modified on June 26, 2019)

In general, a **fringe benefit** is any property or service that an employee (including certain [independent contractors](#)) receives in lieu of, or in addition to, regular compensation. Fringe benefits can take many forms. Examples include (but are not limited to) such items as gift certificates, athletic tickets, certain club memberships, spouse/companion travel, automobiles, housing, meals, awards, clothing or prizes.

The following guidance is provided to assist USG institutions and employees in understanding the tax treatment of clothing and gifts, prizes and awards, as well as the reporting and withholding rules that must be followed as the employer.

The guidance below will discuss the general rules, as well as many common situations encountered. References to the Internal Revenue Code (IRC) and Treasury Regulations (Reg.) are provided, along with other IRS guidance that may be helpful. However, the information is not intended to be all-inclusive.

5.3.17.1 Taxability of Fringe Benefits

Fringe benefits are taxable, unless specifically excluded by law. IRC §61; Reg. §1.61-21

The following publications address the IRS' approach to fringe benefits:

[IRS Pub. 15-B](#) Employer's Tax Guide to Fringe Benefits

[IRS Pub. 5137](#) Fringe Benefit Guide

For a fringe benefit to be taxable, it need not be furnished directly to the employee by the institution, as long as the benefit is provided in connection with the performance of services for the institution. A fringe benefit may be taxable to a person even though the person did not actually receive it. Reg. §1.61-21(a)(4)

Example: (1) A vendor may provide clothing or other items as part of a contract with the institution. (2) An employee's spouse may receive the fringe benefit that is taxable to the employee even though the employee did not receive it.

Valuation

The **general valuation rule** applies to most fringe benefits. Under this rule, the value of a fringe benefit is its **fair market value (FMV)**. This is the amount an individual would have to pay a third party in an arm's-length transaction to buy or lease the benefit.

Neither the employee's subjective perception of the value, nor the employer's cost, determines the FMV of the benefit. Reg. §1.61-21(b)(2)

In many cases, the cost and FMV are the same; however, there are also situations in which FMV and cost differ, such as when the employer incurs a cost less than the value to provide the benefit.

Tax Withholding and Reporting

Taxable fringe benefits for **employees** will be reported as taxable wages on **IRS Form W-2**. Most taxable fringes are subject to federal and state income tax withholding, as well as [Social Security and Medicare](#) taxes. Taxable fringes for **non-employees** are not subject to tax withholding, but may be reportable on **IRS Form 1099-MISC**.

Note: Student workers are considered employees for purposes of this section if they meet common rule requirements and therefore receive a W-2.

5.3.17.1.1 Clothing/Uniforms

Clothing/Uniform expenses and allowances are taxable fringe benefits, unless an exclusion applies as outlined below.

Working Condition Fringe Exclusion – IRC §132(d); Reg. §1.132-5

Working condition fringes are generally defined as any property or services provided by an employer that, if paid by the employee, would be deductible as an ordinary and necessary business expense under IRC §§ 162 or 167.

The Tax Court has established three criteria for the cost of clothing/uniform to be considered an ordinary and necessary business expense: TC Memo 2016-79

1. the clothing/uniform is required or essential in the individual's employment;
2. the clothing/uniform is not suitable for general or personal wear; and
3. the clothing/uniform is not so worn (for general or personal wear).

An employer's expense, direct or through reimbursement, in providing employee clothing/uniforms that meet all of the above criteria is considered a working-condition fringe benefit, and is not includable in employee wages.

EXAMPLES of clothing items that may be excluded as working condition fringes:

- Uniforms worn by police officers, health care professionals, delivery workers, letter carriers, transportation workers; chef's coats; and student athletic uniforms.
- Protective clothing such as safety glasses, hard-hats, work gloves, steel-toed work boots, and other clothing required by OSHA regulations.
- Uniform/clothing that is rented and/or returned to the university and is maintained in a central area where the clothing is issued to the employee. The clothing must be kept and cleaned on university property and reissued on a regular basis. The employee may not assume personal possession of the clothing.
- Uniforms for grounds, maintenance, custodial, farm and field operations and research and food service that meet the characteristics of "torn or stinky" (Madsen v. Commissioner), "bulky, utilitarian in fashion and unsuitable for personal use" (Jackson v. Commissioner) or "dirty and stained" (Cross v. Commissioner).

Please note that an employment contract requiring certain clothing to be worn does not meet the requirement for job exemption taxable benefit for IRS purposes. Items such as polo shirts, windbreakers, etc. although required by the institution as a uniform would not meet the requirements for job exemption taxable benefit.

De Minimis Fringe Exclusion – IRC §132(e); Reg. §1.132-6

De minimis fringe benefits are benefits in which the value is so small in relation to the frequency in which it is provided, that accounting for it is unreasonable or administratively impracticable. For purposes of the de minimis exclusion, the term “employee” means any recipient of a fringe benefit. Reg. § 1.132-1(b)(4)

For USG's purposes, clothing items of **nominal value** (\$75 or less cumulative annually/calendar year) and provided **infrequently** (no more than two times per calendar year) may be excluded from taxation as a de minimis fringe benefit.

If either the value or frequency limits are exceeded, the entire value of the benefit (not just the excess amount) is taxable. Reg. §1.132-6 (d)(4)

EXAMPLES of clothing items that may be excluded as de minimis fringes:

- Low-value clothing bearing the University or department name.
- T-shirts provided to employees to wear to promote a campus event.

An apparel allowance, or the value of merchandise credit provided to certain employees that allows them to acquire apparel and goods directly from an outside vendor, **is a taxable fringe benefit**. Please note that the de minimis fringe exclusion above would apply.

Please note that there must be a specific business purpose for all clothing purchases such as job requirement, safety, etc.

5.3.17.1.2 Gifts, Prizes and Awards

CASH and cash equivalents, including gift cards, gift certificates, credit/debit cards, Cash, etc. are considered taxable income to the employee regardless of the value and must be included on the employee's W-2 regardless of value.

EXAMPLE: The IRS has ruled that wellness program cash rewards or premium reimbursements must be treated as taxable wages. IRS Memorandum 201622031

Please note that guidance for Incentive Compensation and Rewards Program outlined in the Human Resources Administrative Practice Manual (HRAP) should be followed for cash awards.

NON-CASH gifts, prizes, and awards are generally considered taxable income to the employee unless they qualify to be excluded as either.

- Employee achievement awards, or
- De minimis

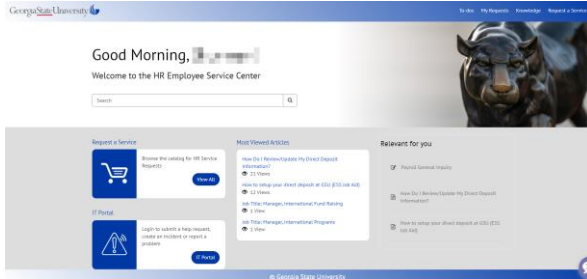
De minimis is defined by the State of Georgia Governor's Executive Order dated March 30, 2017 as \$75. Employee achievement awards for length of service and safety must comply with the State of Georgia defined de minimis amount in order to not be in violation of the State gratuity clause.

For non-cash gifts, prizes and awards above \$75 that are part of a qualified plan award program and are funded with non institutional resources, the institution should follow IRS taxable fringe benefits guidelines. (IRS Publication 5137)

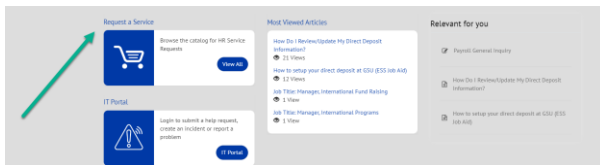
Appendix B

ServiceNow Ticket Submission Instruction

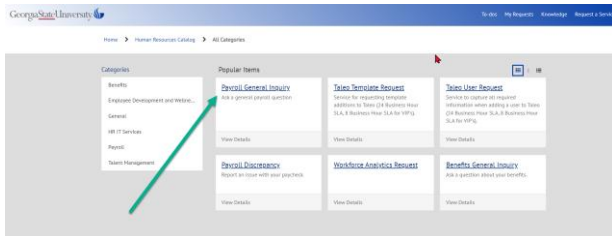
1. Log onto the [Service Now Ticket](https://gsutech.service-now.com/esc) website (<https://gsutech.service-now.com/esc>)



2. Select Request a Service



3. Click Payroll General Inquiry



- 4.

1. In the "What is your question box" – Enter Taxable Merchandise Report Submission
2. Select your preferred method of contact
3. On the next line to display enter your email address or phone number.
4. Add your attachment
5. Click submit

