

Do gift cards count as employee income?

Q. We gave our employees gift cards as holiday gifts. Must these gift cards be reported as taxable income?

A. The Internal Revenue Code states that “gross income” is subject to income tax—unless specifically excluded by the code. One such exclusion in the code is found in Section 132(a)(4), which provides that “gross income shall not include any fringe benefit that qualifies as a . . . *de minimis* fringe benefit.” Section 132(e)(1) then defines “*de minimis* fringe” as “any property or service the value of which is (after taking into account the frequency with which similar fringes are provided by the employer to the employer’s employees) so small as to make accounting for it unreasonable or administratively impracticable.”

Section 1.132-6(e)(1) provides examples of *de minimis* fringe benefits that are excludable from an employee’s gross income, such as occasional personal use of copy machines; occasional group meals and parties; occasional sports tickets; snacks and sodas; and traditional birthday and holiday gifts (not cash) with low fair market value.

Section 1.132-6(e)(2) provides examples of fringe benefits that are not excludable as *de minimis* fringes, including season tickets to events; memberships in paid clubs; and use of employer-owned facilities, such as hunting lodges or boats.

Note that cash is specifically excluded from being a *de minimis* fringe benefit, and thus it is taxable—even if the amount of cash given is small. This is because cash values are easy to ascertain, so accounting for cash is not unreasonable or administratively impracticable.

Cash equivalents—such as gift cards and gift certificates—are generally not fringe benefits. This may be true even when the gift for which the gift certificate was provided would itself be considered a *de minimis* fringe benefit. For example, if an employer bought an employee a quick, cheap dinner at a restaurant, it would likely qualify as a *de minimis* fringe benefit. However, if the employer provided a gift card to the employee and the employee bought his or her own dinner, that likely would not be a *de minimis* fringe benefit.

Interesting, there is an exception to this general rule that draws a distinction between general gift cards/certificates and property-specific gift cards/certificates: gift certificates that allow an employee to receive a specific item of personal property that is minimal in value, “depending on facts and circumstances,” may qualify as *de minimis* fringe benefits.