Agenda

- Taxable Uniforms and Clothing
  - BFS – new rule and taxation
  - Oracle show-and-tell: Special Earnings form

- Announcements
Taxable Uniforms and Clothing
BFS – new rule and taxation
CLOTHING & UNIFORM
FRINGE BENEFITS
Definitions

- De Minimis Fringe
- Working Condition Fringe
De Minimis Fringe

- In general, a De Minimis benefit is one for which, considering its value and the frequency with which it is provided, is so small as to make accounting for it unreasonable or impractical. IRC § 132(a)(4)

- Whether an item or service is De Minimis depends on all the facts and circumstances. If a benefit is too large to be considered De Minimis, the entire value of the benefit is taxable to the employee, not just the excess over a designated De Minimis amount.

- The IRS has ruled previously in a particular case that items with a value exceeding $100 could not be considered De Minimis, even under unusual circumstances.
General Rules for the WCFB Exclusion (Pub. 15-B)

- Must relate to the employer’s business and be provided so employee can perform his or her job.
- Employee would be entitled to an income tax deduction, if paid personally. IRC §132(d)
- Business use must be substantiated with records; meaning, the accountable plan rules must be met for reimbursements or clothing allowance. IRC §162; Reg. §1.162(c) (1)
It is not enough that employees wear distinctive clothing.

The clothing must be specifically required by the employer.

Nor is it enough that employees do not, in fact, wear their work clothes away from work.

The clothing must not be suitable for taking the place of regular clothing.
Working Condition Fringe Benefits

- WCFB rules apply to clothing/footwear/Personal Items:
  - purchased by the employer and issued to the employee
  - purchased by the employee and reimbursed by the employer
  - purchased by the employee using a State purchasing card
- Rules also apply to allowances for the care and upkeep of said clothing/footwear.
Working Condition Fringe Benefits

- There is no specific statutory guidance from the IRS on clothing or uniforms.
- Employers must apply a “reasonable person” approach (what would a reasonable person say) when deciding if the benefit is taxable or non-taxable.
- Tax determinations are made based on rules for business deductions and WCFBs and how expenses are substantiated.
- If clothing qualifies as a taxable fringe benefit, the IRS requires that the Fair Market Value be included on employees’ W-2 and withholding be deducted.
If clothing/uniforms or footwear is determined to be a Working Condition Fringe Benefit; and, therefore, non-taxable:

- Document the justification for the determination
- Retain Purchase Receipt
- Retain the justification in the event of an IRS audit.
OSHA Guidelines

- Sec. 1926.95 Criteria for personal protective equipment.
- (d) Payment for protective equipment. (1) Except as provided by paragraphs (d)(2) through (d)(6) of this section, the protective equipment, including personal protective equipment (PPE), used to comply with this part, shall be provided by the employer at no cost to employees.
OSHA Exceptions

(2) The employer is not required to pay for non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and non-specialty prescription safety eyewear, provided that the employer permits such items to be worn off the job-site.

(3) When the employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, the employer is not required to reimburse the employee for the shoes or boots.
OSHA Exceptions

(4) The employer is not required to pay for:

(i) Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots; or

(ii) Ordinary clothing, skin creams, or other items, used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.
OSHA Exceptions

(5) The employer must pay for replacement PPE, except when the employee has lost or intentionally damaged the PPE.

(6) Where an employee provides adequate protective equipment he or she owns pursuant to paragraph (b) of this section, the employer may allow the employee to use it and is not required to reimburse the employee for that equipment.
QUESTIONS?
Taxable Uniforms and Clothing
Oracle show-and-tell: Special Earnings Form
Special Earnings

- “Cell Phone Allowance” form now “Special Earnings”
- New earning choice: “Imputed Apparel”
- Imputed Apparel is non-recurring
Special Earnings Reminders

- Enter and validate by the 10th of each month
- Enter information in a timely manner to avoid placing a burden on employees
Announcements

- **Executive Director of Human Resources**
  - HR Liaison Constituent Open Forum
    - Friday, February 22, 9:15 – 10:00 a.m.
    - LSC Grey Rock Room
- **AP Framework with Aon**
  - Thursday, February 21, 1:30 – 3:30 p.m.
  - LSC Cherokee Park Ballroom
- **AP Classification – Classifying a Position**
  - Monday, February 25, 9:30 – 11:30 a.m.
  - LSC Cherokee Park Ballroom
- **Systems Process Mapping Work Session**
  - Tuesday, February 26, 9:00 – 11:00 a.m.
  - LSC Longs Peak Room