



Office of the State Comptroller

PAYROLL BULLETIN

Subject Increase in Maintenance Rates and Rules for Determining Taxable Status of Maintenance Deductions	Bulletin No. P-476
	Date March 24, 1986

In accordance with Budget Bulletin B-1080, issued on September 27, 1985, maintenance rates are increasing effective April 1, 1986.

The Office of the State Comptroller has produced a special listing to be used in lieu of AC-1040 forms for this purpose in preparing your payroll for Period 1. The enclosed listing contains employees of your agency, if any, who currently have maintenance deductions, in line number order with the amount(s) of taxable and/or non-taxable maintenance deductions now in effect.

Also, below are the rules for determining the taxable status of maintenance deductions for State employees. You must review the maintenance deductions for each employee to determine the taxable status as well as the increased amounts.

Determining Taxability of Maintenance Deductions

These rules are to be used by payroll officers in determining whether the maintenance charges deducted from employee wages are classified as taxable or non-taxable for payroll purposes. The State, as the employer, has a responsibility to report these amounts properly to the taxing authorities.

Section 119 of the Internal Revenue Code states that all of the following conditions must be met before meals and/or lodging charges can be classified as non-taxable and therefore excludable from gross income:

1. The meals or lodging are provided at the employer's place of business, and
2. The meals or lodging are provided for the employer's convenience, and
3. For lodging, but not meals, the employee is required to accept the lodging as a condition of his or her employment.

The following is a further clarification and explanation of these conditions. Additional clarification and details can be found in the appropriate Internal Revenue Service regulations.

a. Meals

1. Meals Furnished Without Charge

If meals are furnished for the employer's convenience without charge to an employee at the employer's place of business, the value of such meals will generally be non-taxable. The meals must be furnished for a non-personal purpose, such as:

a. Meals (continued)

Having the employee available on site for emergency call during his meal period

or

Due to the nature of the business, the employee must be restricted to a short meal period and cannot be expected to eat elsewhere.

2. Meals Furnished With a Charge (Deduction)

If an employer provides meals which an employee may or may not purchase, the meals will not be regarded as furnished for the convenience of the employer and therefore the maintenance deduction is taxable.

b. Lodging

All three tests of Section 119 of the Internal Revenue Code must be met for an employee's maintenance deduction to be classified as non-taxable. In general, most employees occupying State owned housing would meet the first test of Section 119, that the lodging be on the grounds of the employer's place of business. The two additional tests are discussed as follows:

1. Convenience of Employer

To meet this test, the employer must furnish the lodging to the employee so that the employee may properly perform his or her duties. Acceptable evidence to support meeting this test would include a job requirement that the employee be on-call to serve in emergencies. Two examples provided in Federal regulations include:

The provisions of lodging to an employee because he is required to be on duty at all times.

The provision of lodging in order to have the employee available for an emergency call.

2. Condition of Employment

To meet the condition of employment test, the employee must have been required to accept the lodging at the time he or she was hired. In determining if this condition was met, satisfactory evidence must be available to show that if the employee did not accept the lodging, he or she would not have been employed. The agency must be able to demonstrate that the job specifications and/or requirements used to solicit applicants for the position clearly spelled out this condition of employment. If the employee had an option to either live in State housing or not live in State housing, the third test is not met and any maintenance charge must be classified as taxable. That employees choose to live in State housing, thereby making themselves available for emergency calls, does not have an effect on this determination.

Review of Maintenance Deductions for Current Employees & Correction of Amounts

To report the increases in maintenance and to change deductions from non-taxable to taxable, or the reverse, complete the listings as described below. Since the new fiscal year line changes will have been processed after this listing is produced, if an employee's line number has changed cross off the old number and enter the new one above it on the listing.

1. To change the amount of either taxable or non-taxable maintenance, or both, enter the amount(s) in the appropriate spaces.
2. To change from non-taxable to taxable maintenance, enter 0.00 in the spaces provided for changing non-taxable maintenance and enter the appropriate amount in the spaces provided for changing taxable maintenance.
3. To change from taxable to non-taxable, enter 0.00 in the spaces provided for changing taxable maintenance and enter the appropriate amount in the spaces provided for changing non-taxable maintenance.
4. To cancel either taxable or non-taxable maintenance, enter 0.00 in the appropriate spaces.
5. Completely cross off those employees whose deductions should not change.
6. To start maintenance for employees who are not on the listing, submit an AC-1040 in the usual manner.

Submit the original copy of the marked-up listing to this Department together with your AC-1040's for period 1. However, do not include the changes to be processed from this listing on Form AC-1060, Transmittal for Payroll Deduction Forms AC-1040. If you report a change from non-taxable to taxable maintenance on the listing, OSC will also adjust the year-to-date non-taxable maintenance accordingly.

