



December 22, 2021

TO: Business, Payroll, and Personnel Administrators
HCM District Coordinators
Los Angeles County School and Community College Districts
Charter Schools and Other Local Educational Agencies

FROM: Raymond Bribiesca, Payroll Systems Coordinator
District Personnel Information Services
Division of School Financial Services

SUBJECT: Form W-2 - Additional Compensation Adjustments

This bulletin provides information and instructions concerning W-2 reporting for additional wage and tax items and special Human Capital Management System (HCM) procedures.

HCM will produce the annual *W-2 Employee Wage and Tax Statements* for all district employees with taxable wages in 2021. In addition, 2021 wage and tax data will be electronically transmitted to the Social Security Administration (SSA) as part of the annual W-2 production process. Districts do not need to submit a Form W-3 for the W-2s produced annually in HCM.

W-2s are created based upon final year-to-date data in HCM and will not require any district action. There are, however, a variety of year-end “additional compensation” items that may require some special district processing in order to be included on the W-2.

Tax Advice

This bulletin and its attachment are not intended as tax advice, but rather only to assist school districts in understanding the W-2 reporting requirements and HCM capabilities. Districts with specific tax questions should seek advice from their tax counsel or Federal and State tax agency resources.

Reportable Additional Compensation Items

Internal Revenue Service (IRS) Publication 15-B contains a discussion of employer-provided fringe benefits and the tax treatment applied to those benefits. The following are some of the possible **additional fringe benefit** items that may require reporting on the *2021 Form W-2*. This is not an all-inclusive list. Detailed information is provided for the following topics:

- Group Term Life Insurance in Excess of \$50,000: Internal Revenue Code (IRC) §79 §6052
- Whole (Permanent) Life Insurance: Income Tax Regulations §1.61-2(d)(2)ii.
- Mileage Reimbursements: Reporting excess over the federal maximum as wages.
- Automobile Allowances and Personal Use of District-Provided Automobiles: Generally required to be included on the W-2.
- Allowances or Reimbursements for Business Travel Expenses: Income Tax Regulations §1.62-2. If paid under a non-accountable plan, reporting is required per IRS rules.
- Third-Party Sick Pay and Workers' Compensation Adjustments(WCA).
- Dependent Care: IRC §129.
- Group Legal Services.
- Educational Assistance: IRC §127, §132, §162 and Regulation §1.162-5.
- Domestic Partners and Same-Sex Spouse Health Coverage.
- Nondiscrimination Requirements: Federal requirements as to the value of the benefits and their inclusion in employee wages.
- Military Differential Pay: Payment to employees while on active duty status in the US uniformed services if scheduled to work more than 30 days.

Procedures for and examples of including "Other Compensation" items in the W-2s produced by LACOE are attached. Due to HCM/FIN implementation activities and staffing challenges during the holiday periods, districts are encouraged to **enter any necessary adjustments into HCM as early as possible.**

Balance adjustments in HCM entered after December 28, 2021 will reflect on a W-2C form. Balance adjustments in HCM do not process in supplemental cycles, they process every night with the nightly No Pay Calc cycle.

Districts are reminded to review the Customer Resource Center (CRC) daily for possible changes to previously published schedules or information.

2021 COVID-19 Supplemental Paid Sick Leave

The Families First Corona Virus Response Act (FFCRA) expired December 31, 2020. From January 1, 2021 to September 30, 2021, California required employers with 26 or more employees to provide their workers up to 80 hours of supplemental paid sick leave (SPSL) for COVID-19 related reasons. There is no additional reporting requirement for 2021 supplemental paid sick leave on the W-2. IRS Notice 2021-53 (W-2 Reporting) states, "Governmental employers that are prohibited from claiming credits for qualified leave wages are not required to separately report any qualified sick leave wages or qualified family leave wages paid to employees."

Bulletin Attachment Distribution

This bulletin and the supplemental attachment should be distributed to the district payroll supervisor and HCM District Coordinator. This information should be shared with staff inputting year-end adjustments or for W-2 reconciliation and tax deposits.

Should you have questions regarding this bulletin, please contact the SFS Payroll Unit at SFS_Payroll_Manager@laoe.edu.

Approved:
Sean Lewis, Assistant Director
School Financial Systems and Services

RB:sm

Attachment

SFS-A21-2021-2022

Los Angeles County Office of Education Division of School Financial Services

With references from the Internal Revenue Service

Reporting W-2 Data to HCM

December 2021

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PART I

W-2 Reportable Items

A. General Information

The Internal Revenue Code (IRC) provides that all payments in cash or benefits to an employee by an employer are income to the employee and are to be reported as part of "wages, tips and other compensation" on W-2 statements and are subject to deductions for Social Security and Medicare taxes if the employee's service is covered. This is a general statement. **Only items specifically excluded by *other* provisions of the code are not reportable or subject to mandatory tax deductions.**

For example, employer payments of employee health insurance premiums are excluded from employee income by IRC §106. Reimbursements for medical expenses attributable to district-paid health insurance premiums are excluded by IRC §105. State law is generally consistent with Federal tax law for **most** payments or benefits.

1. Reportable Income Requiring District Action

Some types of reportable employee income are not *automatically* included on the HCM W-2s and must be included on W-2s by manually entering External Adjustments into HCM as described in this bulletin. There are at least three of these types of income:

Special Valuation

- Reportable income amounts which are not equal to the district payment processed in HCM; i.e., those requiring special valuation methods. For example, the "cost" of district-paid group term life insurance coverage in excess of \$50,000 requires use of a special table. Also, coverage for domestic partner and civil union spousal benefits requires an adjustment to employee taxable wages.

Commercial Warrant Benefits

- Benefits reportable as salary, which are paid on commercial warrants, such as flat auto or mileage allowances (non-accountable plan).

Third-Party Pay

- Reportable income pursuant to certain payments made outside HCM by third-parties, attributable to a district-paid benefit; e.g., third-party sick pay payments made pursuant to a district-paid income protection policy.

2. Reportable Items Which Are Not Income

The Internal Revenue Service (IRS) requires employers to report other items which are not income on W-2s. For example, the amount of third-party sick pay, which is **not includable in income due to payment of premium by the employee, must be reported on W-2 statements as a memo item by processing External Adjustments.**

3. Items Automatically Reported by HCM

Income reportable items, such as 403(b)/TSA salary reductions, flat auto or mileage allowances paid in HCM with earnings type AAL, and dependent care benefits are automatically included in the W-2s by HCM.

4. Use of External Adjustments (EADJs) to Include Reportable Items on HCM W-2s

External Adjustments Balance (EADJs) adjustments will be included on the 2021 W-2 statements produced through HCM, **if entered in accordance with timelines specified**. Otherwise, the External Adjustments processed **after** Friday, January 5, 2022, will generate *2021 Forms W-2C* reflecting the additional compensation. Issuance of additional *Forms W-2* to report other compensation is not recommended.

B. Reminders for 2021

1. California Employer W-2 Reporting

DE-9C: School Financial Services (SFS) reports individual employee state wage and tax withholding information to the CA Employment Development Department (EDD) for each district on a quarterly DE-9C electronic file. Districts will receive a DVD containing reports of the detail that is sent.

DE-9: The CA EDD requires employers to electronically submit a quarterly *Form DE-9* to report total wages and taxes for the quarter. Each district must prepare and submit its own *Form DE-9* on the CA EDD website portal.

2. HCM Quarterly Accumulators DE-9C Reconciliation Notes:

- **State Personal Income Tax (PIT):** Year-to-Date (YTD) accumulator balances are used to create the wage and tax amounts SFS will submit to the CA EDD. The PIT totals reported on the DE-9C are the calculated differences between the YTD accumulator balances at the end of the current quarter, minus the YTD accumulator balances at the end of the previous quarter.
- When reconciling quarterly and annual PIT wage and tax spreadsheets, it is recommended to use HCM_PAYRL-0077, Calendar Year to Date Accumulators and HCM_DEDS-0018, Quarterly Reporting of Personal Income Tax.

3. Workers' Compensation Adjustments

The Workers' Compensation payment earnings **only updates the current year wage accumulators**. Individuals who have been paid on taxable salary continuation will require an adjustment to reduce their Federal and State taxable wages. Social Security (OASDI) and Medicare Tax Adjustments

OASDI and Medicare taxes will self-correct based upon a comparison within HCM of the OASDI or Medicare YTD subject wage bases and the tax withholding YTD. If the employee has one more paid payroll in the calendar year, OASDI and Medicare taxes for a wage adjustment will be applied and reported correctly on the W-2.

Adjust taxable wage bases, but do not adjust tax withholding balances unless the amounts were actually recovered from the individual. *Form 941* and *Schedule B* totals will require reconciliation if the tax withholding was not received from the individual.

C. Compensation Which Must Be Included on W-2s

1. Life Insurance (current as of published date)

a) Group Term Life Insurance in Excess of \$50,000

The cost of employer provided group term life insurance coverage up to \$50,000 is excludable from gross income under IRC §79 as a qualified benefit. **Any** employee premiums required for coverage may be taken pre-tax. If the coverage is in excess of \$50,000, the cost of the excess portion requires a separate calculation to determine the value of taxable income.

- i.) Reportable employee income is calculated using the *IRS Uniform Premium Table* below. It is an addition to employee Federal and State wages. The income or value of coverage is not the district "actual" cost of the policy.

Table 2.-2. Cost Per \$1,000 of Protection for 1 Month

Age	Cost
Under 25	\$ 0.05
25 through 29	0.06
30 through 34	0.08
35 through 39	0.09
40 through 44	0.10
45 through 49	0.15
50 through 54	0.23
55 through 59	0.43
60 through 64	0.66
65 through 69	1.27
70 and older	2.06

* For purposes of this table, the age of the employee is the age on December 31, 2021.

Worksheet Example A

District XYZ pays premiums on an \$80,000 **group term** life insurance policy for John Doe, age 55. John Doe pays \$5 tenthly deductions (\$50 annually) in **after-tax deductions** toward the cost of the policy, which will reduce the taxable amount to be reported. **If employee deductions are pre-tax, they do not reduce the taxable calculation.**

Step 1:

Determine excess coverage:	\$80,000	Total Coverage
	<u>(50,000)</u>	Exclusion
	\$30,000	Excess Coverage

Step 2:

Determine the yearly value of excess coverage from the table above.

The value from the table **per \$1,000** coverage for John Doe, age 55, is \$0.43 per month. The value of \$30,000 excess coverage for 12 months is calculated as follows: $30 \times \$0.43 \times 12 = \154.80 . Total fair market value for the 12 months is \$154.80.

If John Doe pays \$50 **in after-tax deductions** toward the cost of the coverage, the value of additional Federal and State income to be added to his tax bases is $(\$154.80 - \$50.00) = \$104.80$. **If the deductions were taken pre-tax, the employee reduction would not apply.**

- ii.) This amount is also includable in W-2 Social Security (OASDI) and Medicare wages, if applicable, and the OASDI or Medicare tax must be withheld.

For employees whose prime assignment is subject to Social Security (OASDI) and/or Medicare, report the value as Social Security wages and/or Medicare wages and process and report payroll deductions at 6.2 percent and 1.45 percent respectively.

*Using the above wage calculation from (i): Addition to Social Security (OASDI) wages = \$104.80. Tax to be deducted is $(\$104.80 \times 6.2\%) = \6.50 . Addition to Medicare wages = \$104.80. Tax to be deducted is $(\$104.80 \times 1.45\%) = \1.52 . **Only adjust the tax if collected outside of HCM.***

Special Group Term Life

- iii.) Employer-paid group term life insurance **for dependents** need not be reported if the policy face value of coverage does not exceed \$2,000. Otherwise, calculate and report the "cost" of the policy in the same way as for the employee, except the \$50,000 and \$2,000 exclusions do not apply. Use the "Under Age 25" rate for minor dependents.

Special cases of group term life insurance for terminated employees who are retired or disabled, or where the district or charitable organization is the beneficiary, or when the insurance is provided as part of an IRC §125 Cafeteria Plan have different tax implications. Consult tax counsel or the insurance provider.

b) Group Whole (Permanent) Life Insurance

District-paid premiums must generally be reported as an addition to reportable Federal and State wages if the proceeds of the policy are payable to the employee's designated beneficiaries. If the employer is the sole beneficiary or the employee pays premiums with after-tax dollars, the value is not included in income. Consult tax counsel or the insurance carrier to determine if the insurance is provided as part of a qualified, non-taxable plan.

Worksheet Example B

District XYZ benefit plan pays a \$200 annual premium under a plan for a group **whole life** insurance policy for John Doe. John Doe's wife is the beneficiary. Process HCM External Adjustments to report \$200 as additions to Federal (FEDTX) and State (CATAX) wages subject to income tax.

"Individual" term life insurance is treated basically the same as group whole life insurance. Districts are advised to seek tax counsel if there is a question whether their particular life insurance is group term life insurance or "individual term" life insurance and regarding possible differences in taxation in special instances.

2 Mileage, Travel and Related Items

a) Mileage Reimbursements

Mileage reimbursements are those made at a **per mile** rate contingent on submission of claims by employees. Typically, a claim shows the destination and distance, purpose or explanation, and a per mile rate of reimbursement. Reimbursements in 2021 at a rate not greater than 56 cents per mile for the period January 1 through December 31, need not be reported. They are considered as substantiated under an accountable plan.

If mileage is reimbursed at a rate greater than the Federal maximum benefit rates per mile, process HCM EADJ to report the following:

- The portion of reimbursement **in excess** of the Federal maximum rate as an addition to Federal wages and State wages and as an addition to Social Security or Medicare wages, if the employee is subject to the taxes.
- Deductions for Social Security (OASDI) and/or Medicare (**only** if the district has collected taxes from the employee.)
- Total reimbursed at the Federal maximum rate of 56 cents per mile. This is entered as a memo item, "Employee Business Expense," on the employee's W-2.

Worksheet Example C

For October 2021, John Doe is reimbursed \$600 for 1,000 miles at a rate of 60 cents per mile. The Federal maximum non-taxable reimbursement rate is 56 cents per mile. Total non-taxable reimbursement is \$560.00 ($1,000 \times \$0.56 = \560). The taxable wages to be added to employee's W-2 is \$40 (\$600 total payment, minus \$560 Federal maximum).

The total excess payment of \$40 is subject to Federal, State, Social Security and Medicare taxes. Year-to-date Federal and State taxable wages would be increased using the appropriate Current- or Prior-year EADJ numbers.

Employee's OASDI and Medicare taxes will be taken on the employee's next payroll. The tax withholding balances are only increased if the district collects the amounts from the employee. If collected, the district would enter EADJ for Social Security (OASDI) of \$2.48 ($6.2\% \times \40) and Medicare of \$0.58 ($1.45\% \times \40).

b) Automobile Allowances/Mileage Allowances (Event types AAL, AALTX, ALLJL, ALTJL and MILET)

- Automobile allowances/mileage allowances (paid monthly as a flat amount) do **not** require submission of detailed expense claims by an employee.
- They are considered paid under a **non-accountable plan** and must be reported on W-2 statements.
- Deductions may be required for Social Security or Medicare, if applicable to the employee.
- Earnings type AAL can be used to pay these amounts in HCM with required deductions and will be automatically included on W-2 statements.
- For earnings types other than AAL, process HCM EADJ to report additions to Federal and State wages and, where applicable, additions to Social Security and/or Medicare wages and deductions.

c) Reimbursements/Advances for Travel Expenses (Event Type TRVLT)

Travel expense advances or reimbursements must be reported as an addition to W-2 reportable Federal and State wages and Social Security and/or Medicare wages if the employee's service is subject to the respective taxes, **unless** the reimbursements are made under an **accountable** plan.

In an **accountable** plan, the employee substantiates the expenses to the district; the expenses are only business-related expenses, and unused advances are returned to the district in a "reasonable time" as defined by the IRS, usually within 120 days after incurring the expense.

- For reimbursements to be nontaxable and non-reportable, the substantiation must be timely submission of adequate supporting evidence of ordinary and necessary expenses (expense itemization), including specification of time, place, and reason for travel. Reg. 1.62.2(g)(2)(i).

In a **non-accountable** plan, the employee does not substantiate expenses to the district. Process HCM EADJ by **adding the total reimbursements/advances to** Federal and State wages and to Social Security and/or Medicare-only wages (if the employee is subject to the taxes).

Reimbursements for travel **expenses which are not business-related are fully reportable** and subject to all applicable employment taxes.

d) District-Provided Automobiles

District-provided vehicles are considered a fringe benefit. Districts should figure and report either the actual value of an employee's personal use of the car or the value of the car as if used only for personal purposes (100% income inclusion). IRS Publication 463 provides tables for inclusion amounts for leased vehicles. Employees can deduct the value of the business use of a district-provided car if employer reports 100% of the value of the car as income. See IRS Publication 463 (Travel, Entertainment, Gift and Car Expenses) for more information.

3. Ridesharing Incentives (Event type RIDEP)

Rideshare incentives consisting of additional cash and paid with earnings type **RIDEP** in HCM will automatically be included on the HCM W-2 as an addition to Federal wages (but not State wages) and OASDI/Medicare deductions/contributions will be processed and reported if the employee is otherwise subject to the tax(es).

If a rideshare cash incentive was paid outside HCM, use HCM External Adjustment (EADJ) to include the incentive in Federal wages and collect and report applicable Social Security and/or Medicare deductions. Only adjust the tax if collected outside of HCM.

California Revenue and Taxation Code §17149 provides that rideshare incentives which are contingent on actual carpooling, and not part of base wages are **not** reportable State wages.

If the rideshare incentive is *property* or a *service* and the value is so small that it would be "unreasonable or impractical" to account for it, it is excludable from Federal taxable wages and Social Security/ Medicare (*de minimis* fringe benefit, see IRC §132).

Reporting and taxability may vary for ridesharing incentives **other** than carpooling. Consult district tax counsel if there are any questions.

4. Third-Party Sick Pay (Event Type TSKPY)

Third-party sick pay consists of sick pay benefits paid to employees by a third-party (e.g., insurance company) pursuant to an individual "income protection" disability insurance plan.

Whether payments to an employee are taxable income to the employee depends on how the benefits were funded. Any benefits attributable to employee **after-tax** contributions are not taxable. Benefits based on employer contributions or employee IRC §125 **pre-tax** contributions are taxable income.

Process HCM External Adjustments to report: Taxable Portion (Employer Paid)

- The taxable portion of the third-party sick pay is the amount attributable to the **district-paid** premiums or the employee pre-tax contributions. Enter this portion of sick pay benefits as additions to Federal and State wages.
- The portion of sick pay benefits attributable to premiums paid by the district or employee pre-tax contributions are also subject to OASDI and Medicare taxes.
- There is a six-month limitation for sick pay to be reported as subject to Social Security and Medicare taxes.

Only the **first 6 months** of third-party sick payments are reportable as wages subject to Social Security (OASDI) and/or Medicare taxes.

Reporting

The third-party payer is responsible for the withholding and remittance of applicable employee Social Security, Medicare, and requested Federal income taxes from employee payments that it makes. The district is responsible for the W-2 and 941 reporting of these employee tax deductions, based on information received from the third-party payer. A separate W-2 may be prepared to report employees' third-party sick payments, if not included on HCM produced W-2.

Third-Party Sick Pay Recap

IRS Form 8922 must be used for filing "third-party sick pay recaps", used to reconcile the reporting of sick pay paid by a third-party on behalf of employers to employees in situations in which the liability for the OASDI/Medicare taxes on the sick pay is shared. This modified procedure only affects the **filing of the third-party sick pay recaps and does not otherwise affect the current rules** for (1) furnishing statements of the third-party sick pay to individual employees on Form W-2, Wage and Tax Statement, (2) filing with SSA copies of the Forms W-2 together with Form W-3, Transmittal of Wage and Tax Statements, that are not third-party sick pay recaps, and (3) reporting such payments to the IRS on Form 941, Employer's Quarterly Federal Tax Return. The use of IRS Form 8922 also has no effect on liability for OASDI/Medicare tax, income tax withholding, or other taxes. Consult your district third-party sick leave administrator for more information. (Reference: IRS Notice 2015-6)

District tax deposits include only the employer Social Security and Medicare taxes on employee payments. The difference between the total tax required and district deposit is reconciled by an adjustment on Federal *Form 941, Employer's Quarterly Tax Return*. **A separate *Form 941* to report third-party sick pay is not allowed.**

Worksheet Example D

Example employee, John Doe, received \$4,000 in third-party sick pay benefits in two months of 2021. **The policy premiums were 25 percent district-paid and 75 percent employee-paid.** John Doe is subject to Social Security and Medicare, and the third-party payer reported to the district that it withheld \$250 in Federal income tax.

District-Paid Portion

- \$1,000 = 25% x \$4,000 is reportable as an addition to Federal and State wages subject to income tax and as wages subject to Social Security and Medicare.
- \$62 = 6.2% (Social Security rate) x \$1,000 (wages) is reportable as the Social Security deduction.
- \$14.50 = 1.45% (Medicare rate) x \$1,000 (wages) is reportable as the Medicare deduction.
- \$250 is reportable as an addition to Federal withholding tax **and** as an addition to the third-party sick pay Federal withholding balance.

Employee-Paid Portion

- \$3,000 = 75% x \$4,000 is reportable as non-taxable third-party sick pay.

Notes:

Employee/Employer Group Insurance Policy

If the income protection is provided by employer and employee contributions under a group insurance policy, premiums for three years preceding the tax year must be used to value the portion of benefit attributable to district-paid premiums. If premium information is not known for the preceding three years, the current-year premiums may be used, as in the example. The formula for calculating the employee's monthly taxable amount is:

$$\text{Employee's Monthly Sick Payment} \times \frac{\text{Employer-Paid Premiums Last 3 Years}}{\text{Total of Employee/Employer Premiums Last 3 Years}} = \text{Monthly Taxable Amount}$$

IRC §125 Cafeteria Plan

*If the income protection policy is funded **completely by employee salary reductions** pursuant to IRC §125 Cafeteria Plan, **all the sick pay is reportable as an addition to employee wages**. The proration based on employer-paid and employee-paid amounts does not apply since the reduced amount paid to the insurance company is considered employer money.*

Under certain circumstances, the third-party payer may be responsible for W-2 reporting.

See IRS Publication 15-A, Employer's Supplemental Tax Guide for information on third-party sick payments.

5. Workers' Compensation Adjustments (Event Type WCKAJ)

Workers' Compensation payment earnings **only updates the current-year wage accumulators**. Individuals who have been paid on taxable salary continuation should use event type WCKPY which will make the compensation non-taxable. Districts that did not use WCKPY to pay individuals on a salary continuation will require an adjustment to reduce their Federal and State taxable wages.

Adjustments using Event Type WCKAJ should be entered through HCM EADJ per the pay period or per calendar year, if the employee was not paid during the calendar with the pay code WCKPY.

Reportable Dependent Care

- Fair market value of free or discounted employee use of a district-owned or district-funded child day care center.
- District reimbursements to employees or to the facility for dependent care services.
- Dependent care benefits funded by IRC §125 Cafeteria Plan salary reductions.

Regulations require inclusion of the value of dependent care benefits, including those paid through **IRC §125 Cafeteria Plan** salary reductions, in W-2 Box 10.

If the dependent-care benefit is processed in HCM; e.g., salary reductions to a "Flex Account" in HCM or established as a district-contribution benefit in HCM, with appropriate gross-to-net number, **no special district action is required**.

Exceeding Dependent Care Limits

If the employee has exceeded the \$5,000 deferral limit, report the excess over \$5,000 as an addition to W-2 Federal and State wages.

If the employee is subject to Social Security (OASDI) and/or Medicare, process EADJ to report the excess over \$5,000 as additional Social Security and/or Medicare (no limit) wages.

Worksheet Example E

John Doe is a single parent and had \$6,500 in dependent care benefits processed through HCM salary reductions. HCM will report the full amount of \$6,500 as "Dependent Care Benefits" in W-2 Box 10. The district must report $\$1,500 = \$6,500 \text{ (benefit)} - \$5,000 \text{ (exclusion)}$ as an addition to reportable Federal and State wages. Since Doe is covered by Social Security and Medicare, these wages must be increased as well.

HCM will collect the OASDI and Medicare tax withholdings on the next payroll, or the district can collect and update tax fields for \$93 ($6.2\% \times \$1,500$) for employee Social Security (OASDI) and \$21.75 ($1.45\% \times \$1,500$) for employee Medicare. See Part II, Section B, "Adjustments to Social Security (OASDI) or Medicare."

6. Educational Assistance (Event Types TUITN for Non Taxable and TUITX for Taxable)

Certain types of educational assistance are excludable from Federal wages, State wages, and from Social Security (OASDI) and Medicare wages. For educational assistance that is non-taxable, agencies can use pay event TUITN – Non Taxable Tuition Reimbursement. For taxable educational assistance, the pay event is TUITX-Taxable Tuition Reimbursement.

2021 Federal Tax Status

Federal legislation under IRC §127 provides for a \$5,250 annual exclusion from taxable wages for educational assistance for **non-job-related undergraduate courses and for graduate courses which are not job-related. Employers must include amounts over \$5,250 in wages.**

2021 State Tax Status

California provides a permanent \$5,250 annual exclusion from State taxable wages for **both undergraduate and graduate** courses.

There is no dollar limit on the amount of **job-related** educational assistance or reimbursement which can be excluded from reportable income (IRC §132, §162). IRS rules must be applied to determine whether a course is job-related. Other restrictions apply—consult tax counsel for specific cases.

See IRS Publications 970 (Tax Benefits for Education) and 15-B (Employer’s Guide to Fringe Benefits) for more information.

7. Domestic Partners and Same-Sex Spouse Health Coverage

California law (AB 205) requires all California employers to offer the same health care benefits to employees with registered domestic partners that are offered to spouses or dependents of employees. In 2015, the United States Supreme Court ruled in favor of same-sex marriage nationwide and these individuals will be treated as married for federal tax purposes. Premiums paid for same-sex spouse health insurance coverage by legally married same-sex couples are considered pre-tax and excludable from income. Same-sex married couples must file either married or married filing separately for California tax returns.

Federal Tax Law

IRC §106 contains provisions for exclusion from income of the employer-paid portion of health plans for an employee’s spouse (including same-sex spouses) or dependents. Federal tax law does not provide for the tax exclusion of a domestic partner, unless that individual is the employee’s dependent.

The fair market value portion of health/benefit insurance coverage provided to a non-dependent domestic partner is included in Federal gross income as taxable compensation to the employee for Federal income tax and Social Security and Medicare taxes.

Fair market value can be calculated in several ways, as listed below. Districts are advised to confirm with their legal counsel on applying a fair market value. The IRS does not recommend one specific method.

- a) A calculated difference between (1) the premium the **district contributes** for the employee alone and (2) the premium the district contributes for coverage of an employee and spouse or family, minus (3) the amount the **employee contributes** for the coverage.
- b) An actuarial calculation. The difference between the **actuarial value of insurance** for (1) a single person and (2) insurance for a couple or family, minus (3) the amount the employee pays for the coverage. This method would involve the need for actuarial calculations.
- c) Another conservative option when there is no insurance cost increase, such as with a blended rate, is to use the COBRA single individual premium for determining an imputed taxable value.

The IRS has not provided specific guidance on how a taxable value must be calculated. It does require that a fair market value of insurance coverage must be included in the employee's income, even if the cost of the coverage does not change as a result of adding a non-tax dependent.

There are various Federal tax consequences for domestic partner coverage, based upon the dependent vs. non-dependent status of an individual and premium payments on a pre-tax and after-tax basis. District tax counsel should review any reporting issues regarding taxable or non-taxable status.

IRC §125 regulations provide that employee contributions can be tax-deferred for spouse or dependent coverage. If a domestic partner is not a dependent, the portion of the employee contribution assignable to the domestic partner must be an **after-tax deduction**.

Any added income is fully taxable for Federal Income Tax (FIT) and Social Security (OASDI) and Medicare taxes.

Current external pay adjustments should be added to the FIT, State (if applicable) OASDI, and Medicare subject wage bases in HCM in time to be included with the employee's final regular payroll production for 2021.

HCM will calculate the proper Social Security (OASDI) and Medicare tax withholdings. Prior EADJs through Dec. 21, 2021 will appear on the 2021 W-2.

Reference: IRS Code Section 61, 106; IRS Pub 15, 15B, and various IRS Letter Rulings.

California Tax Law

California tax liability for domestic partner health benefits is determined by whether or not there is a registered domestic partnership on file with the Secretary of State's office.

On July 30, 2019, SB 30 was signed into law, which eliminates the limitations on who may form domestic partnerships. SB 30 allows opposite-sex couples under the age of 62 to be eligible to form domestic partnerships. The new law became effective January 1, 2020.

California law provides that domestic partner health benefits for registered domestic partnerships are non-taxable for State income tax. Individuals are treated as a spousal relationship in a registered domestic partnership.

Health benefits in a qualified partnership are non-taxable to the employee, per *California Revenue and Taxation Code* §17021.7. Same-sex couples who are legally married will be treated as married for tax purposes.

Reference: <http://www.sos.ca.gov/>; California AB 25, AB 205, AB 2208; FTB Notice 2008-5

8. Moving Expenses

Moving expense reimbursements to an employee made under a non-accountable plan require EADJs to report them as additional W-2 Federal and State wages, and wages subject to Social Security (OASDI) and/or Medicare (if applicable).

Qualified (deductible) moving expense reimbursements paid directly to the employee are not reportable W-2 compensation, but districts must report the reimbursement amount for inclusion in W-2 Box 12, Code P.

Qualified moving expenses paid to third-parties are not required to be reported on *Forms W-2*. More detailed information is available in **IRS Publication 521** or consult your district's tax advisor.

The only qualified moving expenses that are deductible (with no dollar limit on the deduction) are:

- Expenses incurred in moving household goods and personal effects from the employee's old residence to the new residence, **and**
- Traveling, including lodging, but **not** meals or mileage in excess of \$0.17 from the old residence to the new residence.

Form W-2 reporting requirements for moving expense reimbursements made in 2021 are as follows:

- Qualified moving expenses are not reported in Boxes 1, 3 or 5 of *Form W-2*.
- Qualified moving expenses an employer pays to a third-party on behalf of the employee (e.g., to a moving company) and qualified services that an employer furnishes in kind to an employee are not reported on *Form W-2*.
- Qualified moving expenses an employer reimburses directly to the employee must be reported in W-2 Box 12, Code P.
- **Non-qualified** expenses, whether paid to the employee or to a third-party, must be reported as wages in W-2 Boxes 1, 3, 5 and 17 and are subject to Federal and State income tax withholding and applicable to Social Security and Medicare taxes.

9. Group Legal Services

Employer-paid group legal service coverage costs must be included in Federal and State wages and is subject to applicable Social Security (OASDI) and/or Medicare taxes.

10. Membership/Professional Dues

The cost of professional dues paid by an employer, which would be deductible as a business expense on an employee's tax return if paid by the employee, qualifies as a "working condition fringe benefit" and is excludable from (being reported as) income. The cost of memberships, which are primarily of personal benefit, may be reportable. Consult with a tax counsel as necessary.

11. Military Differential Pay

Section 3401(h) was added to the Code by section 105(a) of the Heroes Earnings Assistance and Relief Tax Act of 2008, Pub. L. No. 110-245, 122 Stat. 1624, 1628-630. New subsection 3401(h) provides that, for purposes of income tax withholding, any differential wage payment is to be treated as a payment of wages by the employer to the employee. The term "differential wage payment" means any payment which (A) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) while on active duty for a period of more than 4 30 days, and (B) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer. Section 3401(h) applies to differential wage payments paid after December 31, 2008. The enactment of section 3401(h) modifies the holding in Revenue Ruling 69-136 that differential wage payments are not subject to income tax withholding.

PART II

Adjustment Processes and Examples

A. HCM Year-End Balance Maintenance (W-2s)

- The last payroll with an issue date in 2021 is produced on **December 21, 2021**.
- Immediately afterward, the 2021 current-year wage and tax balances will be rolled into the prior-year accumulator fields.
- Current-year accumulators will be set to zero and used for the first payroll production with 2022 issue dates.
- *2021 Form W-2* and annual reports will be generated from the **prior-year** YTD wage and tax accumulator balances.