

March 2019

Email to Wellness Councils regarding de minimis gifts

We want to bring to your department's attention the concern about prizes and gifts provided through WFHT.

The concern is specific to the dollar value of prizes combined with any other prize or gifts provided by the department exceeding the "De Minimis" fringe benefits exception. Here is a [link](#) to the IRS website describing the De Minimis Fringe Benefits exception. 26 USC 132(e)(1) 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."

The IRS has found that non-monetary recognition awards having a [fair market value of \\$100](#) do not qualify as de minimis fringes. Therefore, gifts valued at \$100 or more are most likely not de minimis and the IRS requires employers to report gifts as wages that do not meet the de minimis exception stated in 26 USC 132. The IRS could still find that a gift under \$100 is not de minimis depending on the facts. \$100 is not a bright-line safe harbor.

Considering that the gifts provided to the Wellness Councils by Benefits Administration are less than \$50 and are not frequently provided, it appears that a single gift would meet the de minimis exception unless an employee received multiple gifts through the Wellness Council or the agency provided numerous gifts to its employees through other programs.

Since Benefits Administration cannot account for all of the gifts given to an employee by a State agency, it is the agency's responsibility to ensure that applicable IRS regulations are complied with regarding gifts received by the agency's employees. To mitigate the risk, we are making the following recommendations:

1. It is the agency's responsibility to track who is receiving the gifts to ensure that applicable IRS regulations are complied with regarding gifts received by the agency's employees and that the agency ensure compliance with applicable IRS regulations.
2. Requests for prizes should take into consideration the outlined risk and consider the dollar value of the prize. We recommend not giving gifts or prizes with a fair market value over \$75.