



WORKSITE WELLNESS & FEDERAL INCOME TAX

October 2010

MINNESOTA EMPLOYERS who establish worksite wellness programs must comply with certain legal requirements. Important legal issues to consider are the HIPAA nondiscrimination regulations, the HIPAA Privacy Rule, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), the Minnesota Consumable Products Act, federal and state nursing mothers laws and federal income tax law. Please refer to the corresponding fact sheet on the Public Health Law Center's website for a description of each legal requirement. This fact sheet provides an overview of federal income tax law as it applies to worksite wellness programs. When setting up a worksite wellness program, it is important to consult with an attorney to make sure that the program meets all legal requirements.

Q Are there any federal income tax issues I need to be aware of when creating a worksite wellness program?

A Yes. Federal income tax requirements may affect worksite wellness programs in two ways. First, some

“Some incentives & rewards may be taxable to employees.”

incentives and rewards that employers provide to employees may be considered fringe benefits taxable to employees.¹ Second, employers may be allowed to deduct some expenses related to a wellness program.²

Q What is a fringe benefit?

A A fringe benefit is a form of payment such as property, services, cash or cash-equivalents that an employee receives in addition to regular pay. Fringe benefits may be taxable or nontaxable.

Q Which types of fringe benefits are taxable to employees?

A Examples include:

- » Cash and cash-equivalents such as gift certificates, no matter the amount
- » Dues for a commercial health club

Q What types of fringe benefits are nontaxable to employees?

A Examples include:

- » De minimis fringe benefits (value too small to account for, such as water bottles)
- » Meals on the employer's premises
- » Contributions to health insurance plans
- » Health club on the employer's premises primarily for the use of employees and their families.



Q What are the tax consequences for employers?

A An employer may take a tax deduction for the cost of fringe benefits that are not taxable to employees, such as water bottles, healthy snacks, on-site meals, or contributions to health insurance. An employer may not take a tax deduction for the cost of fringe benefits that are taxable to employees, such as cash or gift certificates.

“Employers may be allowed to deduct some expenses related to a wellness program.”

Q What issues should I discuss with my attorney or accountant?

A

- » Which of my expenses are considered fringe benefits for my worksite wellness program?
- » Should I withhold taxes from my employees' paychecks for any fringe benefits I provide as part of a worksite wellness program?
- » May I take a tax deduction for any of my expenses for worksite wellness fringe benefits?



For related publications, visit www.publichealthlawcenter.org

The Public Health Law Center provides information and technical assistance on issues related to tobacco and public health. The Public Health Law Center does not provide legal representation or advice. This document should not be considered legal advice. For specific legal questions, consult with an attorney.

1 26 C.F.R. § 1.132; INTERNAL REVENUE SERVICE, TAXABLE FRINGE BENEFIT GUIDE (2010) available at http://www.irs.gov/pub/irs-tege/fringe_benefit_fslg.pdf; INTERNAL REVENUE SERVICE, EMPLOYER'S TAX GUIDE TO FRINGE BENEFITS, PUBLICATION 15-B (2010) available at <http://www.irs.gov/pub/irs-pdf/p15b.pdf>.

2 26 U.S.C. § 162(a); Internal Revenue Service, Business Expenses, Publication 535 (2009) available at <http://www.irs.gov/pub/irs-pdf/p535.pdf>.