

December 13, 1996

To: Allan Price, Vice President for Institutional Advancement
Kevin White, Athletic Director
J. Robert Wills, Dean, College of Fine Arts
Lonnie Ostrom, Director of Development and President, ASU Foundation
Susan Dolbert, Executive Director, Alumni Association
Colleen Jennings-Roggensack, Executive Director, Public Events

From: Jerry Snyder, Comptroller and Treasurer

Subject: Airline Tickets, Event Tickets, and Meals Provided to ASU Employees, Spouses, and Affiliated Parties

The purpose of this memorandum is to sensitize you to a tax issue that came up at a conference on University Strategic Issues presented by the National Association of Colleges and University Business Officers. This issue dealt with the taxability of airline tickets, event tickets, and meals provided to ASU employees, spouses, and affiliated parties, e.g., ABOR members. We consulted with the tax department of Deloitte & Touche to develop the attached taxability matrix to provide clarity as to when airline tickets, event tickets, and meals constitute additional taxable income to the ASU employee or affiliated party.

The attached taxability matrix is effective January 1, 1997, and indicates when the provision of airline tickets, event tickets, and meals to ASU employees, their spouses, and affiliated parties (e.g., Board of Regents' members) constitutes additional taxable income to the employee or affiliated party, or instead, is non-taxable to the employee or affiliated party. If the provision of airline tickets, event tickets, and meals is taxable to the ASU employee or affiliated party, the procedures for reporting the value of the benefits to the ASU Payroll Department or Comptroller's Office are also indicated on the attached matrix.

Regarding complimentary tickets for events, if the tickets do not constitute additional taxable income to the employee or affiliated party, the ASU department providing the tickets needs to maintain records supporting the University purpose being satisfied. Departments responsible for events sometimes provide complimentary tickets to various departmental employees. If the tickets are provided on an Aspace available@ basis for the seating area and on an event-by-event basis, this would not constitute additional taxable income to the ASU employee or affiliated party. If, however, season tickets are provided to various employees and their spouses, this could trigger additional taxable income to the ASU employee. One possible way not to have taxable income attributed to departmental employees who are not directly responsible for an event is to assign them tasks during the event. This can be accomplished by having the departmental employees not directly responsible for the event evaluate the quality of the event staging by completing formal, written evaluation forms.

A copy of the ASU Public Events Complimentary Ticket Policy is also attached. The form that is accompanying the attached policy must be completed by ASU personnel who receive complimentary Public Events tickets. An event evaluation form for ASU Public Events employees and their spouses who are formally evaluating the staging quality of the event and related event services, e.g., concessions and restrooms, is also attached. If tickets are provided to both an employee and a spouse, it would be

necessary for both the employee and spouse to participate in the evaluation process and complete the form, since each person's perspective can be different.

When event tickets or meals are provided for the purpose of cultivating potential donors, being host to University guests and dignitaries, or marketing University services, the employee would not have additional taxable income, since the employee is serving a business and University purpose.

Because of the University's pre-existing travel policies, which are based on State of Arizona requirements, we do not anticipate that the provision of airline tickets by ASU to University employees would result in additional taxable income to an ASU employee.

Please distribute this taxability matrix and the other attachments to your departments and staff that provide tickets or meals to employees for various University functions.

If you have any questions and/or desire any clarification on the attached matrix which becomes effective January 1, 1997, please contact Jerry Snyder, Comptroller and Treasurer, at 965-3601 (E-mail IBUGES@asu.edu), or [as of 2002] Kathleen Rogers, Tax Manager, at 965-8479 (E-mail Kathleen.Rogers@asu.edu).

Attachments

xc: Milt Glick, Senior Vice President and Provost
Paul Ward, General Counsel
Jennus Burton, Associate Vice President for Administrative Services
LeEtta L. Overmyer, Assistant Vice President for Administrative Services
Susan Malaga, Assistant Vice President for Human Resources
Susan Madden, Assistant Director of Human Resources
Kelly Farmer, Tax Manager

Arizona State University Taxability Matrix

12/13/96

Airline Tickets, Event Tickets and Meals Provided to ASU Employees, Spouses, and Affiliated Parties (1)

Fact Pattern	Airline Tickets	Tickets to Events	Meals Provided
<p>1. Employee is</p> <p>(a) performing an integral part of their position responsibilities, e.g. traveling to conference directly related to employee's ASU position or interviewing a candidate for a position during lunch or dinner, or,</p> <p>(b) Employee has direct supervisory responsibility for the activity, e.g., employee performing specific line responsibility within the department while attending an event.</p> <p align="right">Employee Spouse</p>	<p>Non-taxable (2) Not authorized</p>	<p>Non-taxable (2) Taxable (3)</p>	<p>Non-taxable (2) Taxable</p>
<p>2. Cultivating potential donors, hosting university guests and dignitaries, marketing university services, or serving in the capacity and performing the function as a university employee or like that of a university employee, e.g., formally evaluating the staging quality of an event. (An activity performed in a manner which is directly associated and in accordance with the university's "trade or business" exempt purpose.)</p> <p align="right">Employee Affiliated Party (4) Spouse</p>	<p>Non-taxable (2) Non-taxable (2) See note 5</p>	<p>Non-taxable (2) Non-taxable (2) Non-taxable (5)</p>	<p>Non-taxable (2) Non-taxable (2) Non-taxable (5)</p>
<p>3. Employee/affiliated party has operational and/or policy approval chain of command supervisory responsibility and is serving a business and university purpose by being at the activity and not for personal preference or enjoyment, other than in the capacity outlined in category #2 above, e.g., Vice President over Director having responsibility for the event, in order to evaluate the staging quality of an event.</p> <p align="right">Employee Affiliated Party (4) Spouse</p>	<p>Non-taxable (7) Non-taxable (7) Taxable (6)</p>	<p>Non-taxable (7) Non-taxable (7) Taxable (3)</p>	<p>Non-taxable (7) Non-taxable (7) Taxable</p>
<p>4. Employee with no direct or chain of command supervisory responsibility for the activity that meets either category #1 or #3 above.</p> <p align="right">Employee Affiliated Party (4) Spouse</p>	<p>Taxable (6) Taxable (6) Taxable (6)</p>	<p>Taxable (3) Taxable (3) Taxable (3)</p>	<p>Taxable Taxable Taxable</p>
<p>5. Employee with no direct or indirect supervisory responsibilities but affiliated with the program e.g., coach of one sport attending an event of another sport or a professor in one Fine Arts department attending an event of another Fine Arts department to create an "esprit de corps".</p> <p align="right">Employee Spouse</p>	<p>Taxable (6) Taxable (6)</p>	<p>Taxable (3) Taxable (3)</p>	<p>Taxable Taxable</p>

Arizona State University Taxability Matrix Notes

- (1) This taxability matrix applies to airline tickets, event tickets and meals provided not only by ASU but by any ASU affiliated organization, e.g., the ASU Foundation or Alumni Association. This taxability matrix is only applicable to situations where the value of the airline tickets, event tickets, and meals that are taxable in the aggregate for a calendar year total \$50 or more, i.e., the amount is not de minimis.
- (2) Sufficient records need to be maintained by the university department to satisfy the employee's or affiliated party's business and university purpose such that it is clear that the value of the airline tickets, tickets to events, or meals are non-taxable, e.g., the ASU Travel Authorization/Claim form and the Business Meals, Food, and Related Expenses form.
- (3) The value of event tickets provided to employees and to employee's spouses and dependents may, however, be possibly excluded from income as a no-additional-cost fringe benefit. The exclusion from income is dependent on the event having excess capacity (i.e., not sold out in the seating area where the tickets are provided) and where the tickets provided to the employee or affiliated party are offered for sale to the general public. NOTE: The exclusion is not available to the employee if they receive complimentary season tickets.

The value of event tickets provided to employees, affiliated parties, and spouses may also be excluded if infrequently done, e.g., one event annually, on the basis of the value being de minimis. There is also an IRS regulation that allows the university to sell event tickets, including season tickets, to university employees and affiliated parties, at a discount of no more than 20%, without the discount being considered additional employee compensation.

- (4) Affiliated party includes a Board of Regents' member or employee of the Regents' staff.
- (5) For the activity to be non-taxable, sufficient records need to be maintained by the university department to substantiate the spouse's presence as satisfying a business and university purpose. Inability or failure to substantiate a valid business and university purpose would require inclusion of the benefit's value in the employee's W-2 and the withholding of applicable taxes or inclusion on Form 1099 for an affiliated party.

Examples of a bona fide business and university purpose for a spouse include the following:

- Attendance by the employee's/affiliated party's spouse when the university guest is accompanied by their spouse; and/or
- Performance of services by the spouse that are more than incidental to the employee's/affiliated party's business performance, e.g., participation in formal evaluation of the staging quality of the event; and/or
- If the business environment is such that the spouse's presence is expected and/or the spouse participates extensively with business associates and establishes close business relationships.

Even though it is sometimes permissible for spouses to accompany an employee or affiliated party to an event or meal, it is extremely rare for a spouse to accompany an employee or affiliated party on airline travel and when done, it is typically for cultivating potential donors, and/or marketing university services where the airfare is paid by an ASU affiliated organization, e.g., the ASU Foundation, and meets the criteria of being non-taxable. Also see note 6 for charter flight situations.

- (6) If the university, however, charters a flight in which an employee, affiliated party, spouse, and/or dependents are provided a seat and at least 50% of the aircraft's regular seating capacity is occupied by individuals flying on university business, e.g., the football team, coaches, other direct support personnel, and the press, the value of the flight for the employee, affiliated party, spouse, and/or dependents is not includible in the employee's or affiliated party's income.
- (7) If the employee/affiliated party having operational and/or policy approval chain of command supervisory responsibility is at every event for a given activity and not just selected games or performances, it is much easier to substantiate that a business purpose is being satisfied by qualifying under category #2 for non-taxable status.

If a Taxable Situation Occurs

When airline tickets, tickets to events, or meals are provided which are taxable to the recipient, the following needs to be done by the department providing the benefit:

If Provided to Employee, Spouse and/or Dependent of Employee. The ASU organization providing the airline tickets, event tickets, or meals, needs to prepare a memorandum to the ASU Payroll Department indicating the (1) event/activity, (2) date, (3) name of employee and/or spouse or dependent, and, (4) cost, or in the case of event tickets, the sales value. The ASU Payroll Department will then add the cost/value as additional employee compensation and withhold applicable taxes.

If Provided to Affiliated Party, Spouse and/or Dependent of Affiliated Party. The ASU organization providing the airline tickets, event tickets, or meals, needs to prepare a memorandum to the ASU Tax Manager, Comptroller's Office, indicating the (1) event/activity (2) date, (3) name of affiliated party, and/or spouse or dependent, and (4) cost, or in the case of event tickets, the sales value. The ASU Comptroller's Office will include the cost/value as non-employee compensation in filing an annual IRS Form 1099 for non-employee compensation.