Tax Exempt & Government Entities

LGOC

# 14th Annual Local Government Officials' Conference April 3, 2013

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Federal, State & Local Government Specialist with the IRS

## Cell Phones

- Removed from listed property definition
- Effective after 12/31/09
- Business use = Working condition fringe = not taxable
- If Personal use = De Minimis fringe benefit then not taxable

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## Cell Phones

- Notice 2011-72 and
- Memo SBSE -04-0911-083
- Must be non-compensatory business reason
- Applies to reimbursements allowances, and employer provided cell phones

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## Cell Phones

- Cell coverage reasonable to the needs of the employer
- Reimbursement reasonably calculated
- Not in excess of actual expense incurred
  - Review phone bill

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## Uniform Requirements

- Must be required by employer to be worn
  - Must be in written policy
  - Can't be optional
- Cannot be adaptable to every day street wear

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## How Clothing is Purchased

- Applies to:
  - Employer purchases
  - Employee purchases and employer reimburses
  - Purchased thru rental company

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## IRS Accountable Plan

- Allowances paid through non-accountable plan are Taxable
  - If give employee $200 for uniform and they don't provide substation (receipts) then must include in W-2
  - Business Connection
  - Return excess in reasonable time

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## IRS Law & Court Cases

- If clothing suitable for taking the place of regular clothing, include in W-2
  - IRC 162 & 262
  - Mella v. Commissioner T.C. Memo 1968-594
- Not enough that the employee does not wear the clothing away from work
  - Pevsner v. Commissioner 628 F.2d 467

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## IRS Examples of Non Uniforms

- Ball Caps
- T-shirts
- Socks
- All shoes unless steel toe (safety)
- Tactical/BDU pants
- Polo Shirts
- Plain belts
- Shorts
- Under Armour
- Gloves - patrolman
- Sweatshirt
- Carhart jacket
- Jeans

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## IRS Meal Allowances/Reimbursements

- Meals While Traveling
- Meals While Not Traveling
  - Meals with meetings or entertainment
  - De minimis meal allowances

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## IRS Meals While Traveling

- Tax-Free Requirements
  - Away from tax home overnight, or long enough to require substantial sleep or rest
    - One court case not allowing meals with just sleep
  - No set hours or distance away

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## IRS Meals While Traveling

- Not taxable if: Accountable Plan Rules followed
  1. Business Connection
  2. Substantiation
  3. Excess returned in a reasonable time

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## IRS Day Meals

- Not Overnight Travel (Day trip) then
  - Taxable as wages
  - Revenue Ruling 75-432 & 75-170
- If union contract says will pay for meals then reimburse & include in wages
- Still Taxable if in policy or traveling out or county

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## IRS Meals when Not Traveling

- Meals with Meetings or Entertainment
  - Tax-free if meal meets test:
    - "Directly-related" test, or
    - "Associated with" test

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## IRS Meals at Meetings

- "Directly Related" Meals - Tax-Free
  - Clear business setting
  - Meals as part of business meetings
  - Meals at service club or professional meetings
    - Example - Rotary, OFOA, Chamber of Commerce, Professional Association

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## Meals at Conferences

- "Associated With" Meals - Tax-Free
  - Meals at conventions
  - Meals at conferences
  - Does not include going to lunch with co-worker

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## De Minimis Meals

- De Minimis Meals - Tax-Free if:
  - Meal is small in value and occasional
  - Not provided routinely or often
    - Meeting treats, parties, & picnics
  - Provided so employee can work overtime
  - Enables employee to work overtime

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## How to Navigate the IRS Website

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## How to find FSLG new Home Page

- Go to www.irs.gov
- On top right side: Information for
  - Select: Government Entities
- On left side select:
  - Federal, State & Local Governments (FSLG)
- This replaces www.irs/gov/govts

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## FSLG Home Page

- The Tabs at the top are for all IRS not just FSLG
- Tax Information for Federal, State & Local Govt. will be at the top & the left
- Save as a bookmark
- Delete old bookmark

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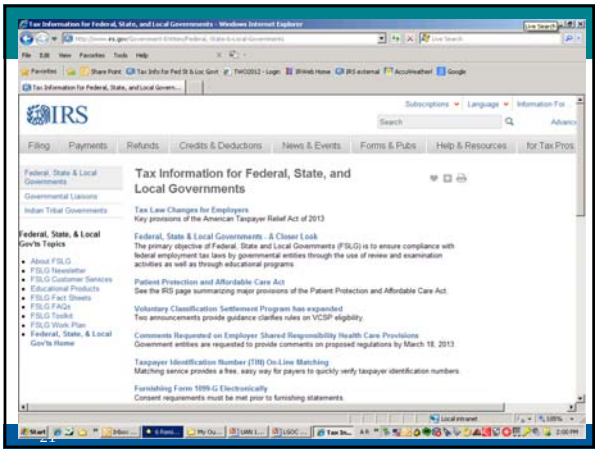

## FSLG Home Page Topics

- Tax Law Changes for Employers – helps you keep up to date on tax law changes
- Patient Protection & Affordable Care Act – provides information & links
- TIN On-Line Matching – explains the programs on verifying TINS prior to filing

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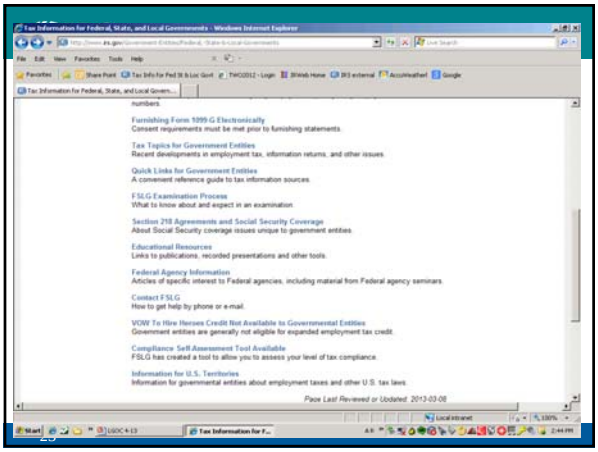


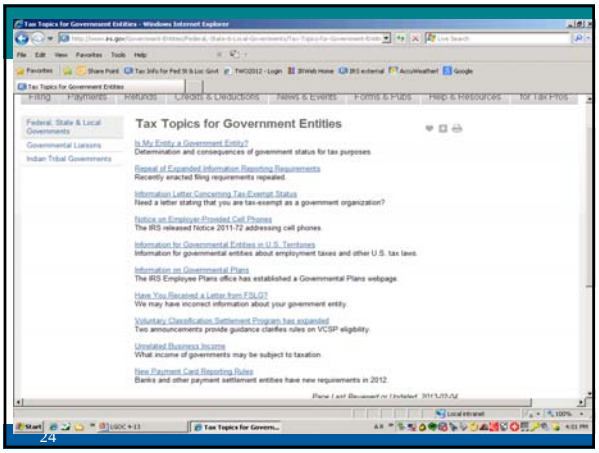


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## IRS Tax Topics for Govt. Entities

- Information Letter Concerning Tax exempt Status – "determination" letter provides phone # to call
- Notice on Employer-Provided Cell Phones – link to memo & Notice 2011-72
- Volunteer Classification Settlement Program (VCSP) – provides info on reclassifying workers as employees

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## IRS FSLG Home Page

On the Left in Blue

- FSLG Newsletter – subscribe or archive
- FSLG Educational Products (select)
  - Publication 963
  - Fringe Benefit Guide
  - Quick Reference Guide

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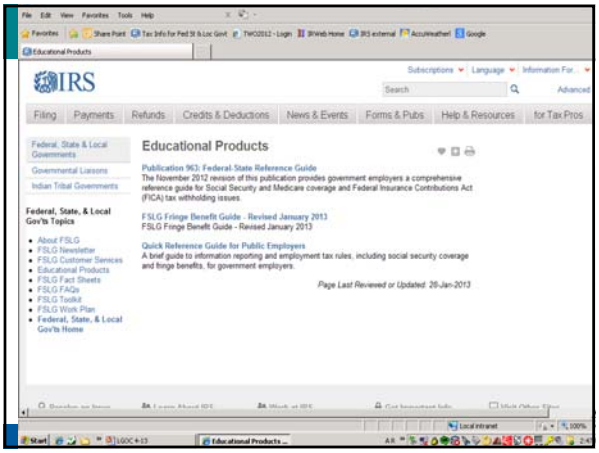
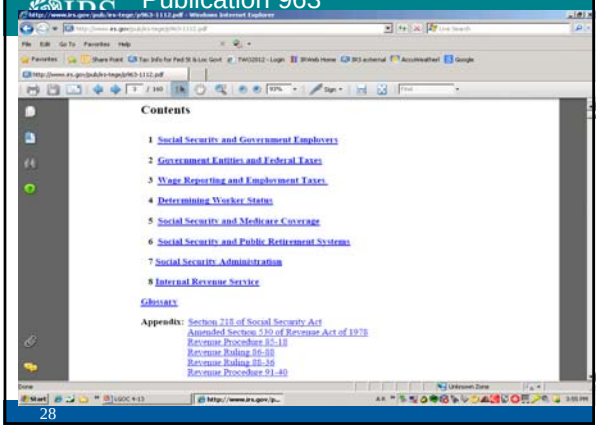


## Publication 963



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2 Government Entities and Federal Taxes
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4 Determining Worker Status
5 Social Security and Medicare Coverage
6 Social Security and Public Retirement Systems
7 Social Security Administration
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Glossary
Appendix: Section 218 of Social Security Act
Amended Section 530 of Revenue Act of 1978
Revenue Procedure 85-18
Revenue Ruling 86-88
Revenue Ruling 88-36
Revenue Procedure 91-40


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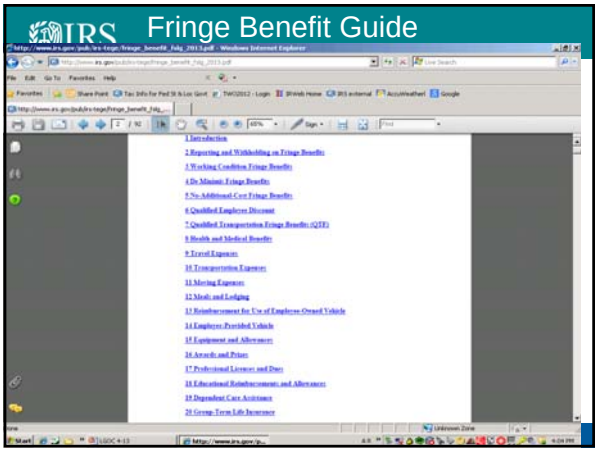
## Fringe Benefit Guide




1 Introduction
2 Reporting and Withholding on Fringe Benefits
3 Working Condition Fringe Benefits
4 De Minimis Fringe Benefits
5 No-Additional-Cost Fringe Benefits
6 Qualified Employee Discount
7 Qualified Transportation Fringe Benefits (QTF)
8 Health and Medical Benefits
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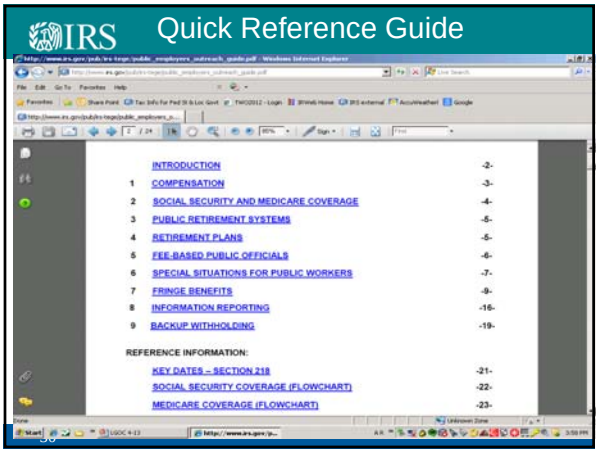
11 Moving Expenses
12 Meals and Lodging
13 Reimbursement for Use of Employee-Owned Vehicle
14 Employer-Provided Vehicle
15 Equipment and Allowances
16 Awards and Prizes
17 Professional License and Dues
18 Educational Reimbursements and Allowances
19 Dependent Care Assistance
20 Group-Term Life Insurance


## Quick Reference Guide

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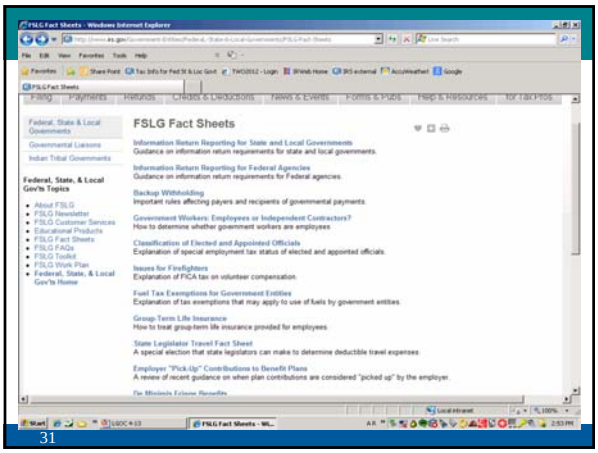
REFERENCE INFORMATION:

KEY DATES – SECTION 218 -21-
SOCIAL SECURITY COVERAGE (FLOWCHART) -22-
MEDICARE COVERAGE (FLOWCHART) -23-

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## IRS Affordable Care Act (ACA)

www.irs.gov

- Under Hot Topics select
  - Affordable Care Act Provisions

OR

- Type Affordable Care Act in search box at top right
  - Select the first choice

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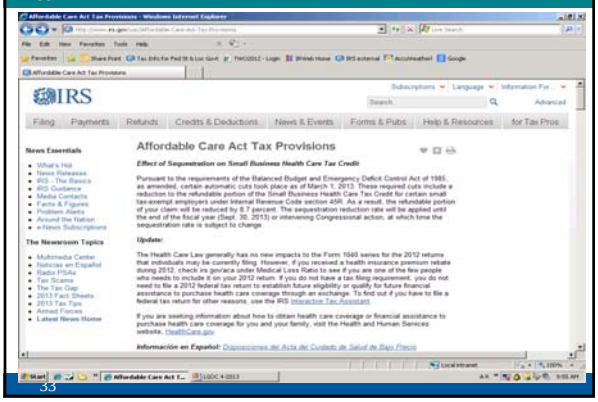
## IRS ACA Tax Provision page

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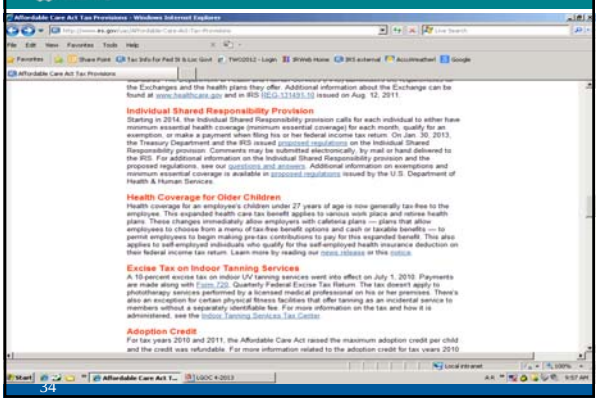
## ACA Tax Provision page



Individual Shared Responsibility Provision

Starting in 2014, the Individual Shared Responsibility provision calls for each individual to either have minimum essential health coverage (minimum essential coverage) for each month, qualify for an exemption, or make a payment when filing his or her federal income tax return. On Jan. 30, 2013, the Treasury Department and the IRS issued proposed regulations on the Individual Shared Responsibility provision. Comments may be submitted electronically, by mail or hand delivered to the IRS. For additional information on the Individual Shared Responsibility provision and the proposed regulations, see our questions and answers. Additional information on exemptions and minimum essential coverage is available in proposed regulations issued by the U.S. Department of Health & Human Services.

Health Coverage for Older Children

Health coverage for an employee's children under 27 years of age is now generally tax-free to the employee. This expanded health care tax benefit applies to various work place and retiree health plans. These changes immediately allow employers with cafeteria plans — plans that allow employees to choose from a menu of tax-free benefit options and cash or taxable benefits — to permit employees to begin making pre-tax contributions to pay for this expanded benefit. This also applies to self-employed individuals who qualify for the self-employed health insurance deduction on their federal income tax return. Learn more by reading our news release or this notice.

Excise Tax on Indoor Tanning Services

A 10 percent excise tax on indoor UV tanning services went into effect on July 1, 2010. Payments are made along with Form 720, Quarterly Federal Excise Tax Return. The tax doesn't apply to phototherapy services performed by a licensed medical professional on his or her premises. There's also an exception for certain physical fitness facilities that offer tanning as an incidental service to members without a separately identifiable fee. For more information on the tax and how it is administered, see the Indoor Tanning Services Tax Center.

Adoption Credit

For tax years 2010 and 2011, the Affordable Care Act raised the maximum adoption credit per child and the credit was refundable. For more information related to the adoption credit for tax years 2010

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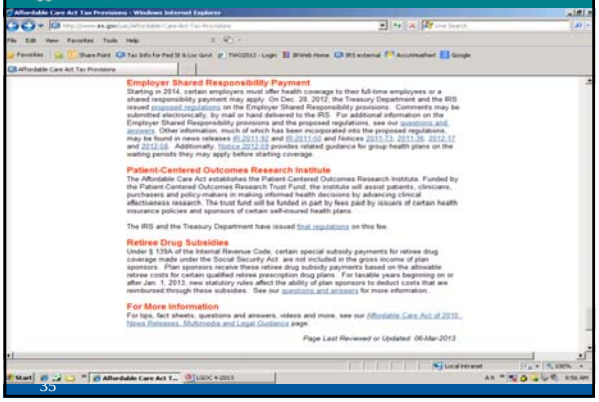
## ACA Tax Provision page



Employer Shared Responsibility Payment

Starting in 2014, certain employers must offer health coverage to their full-time employees or a shared responsibility payment may apply. On Dec. 28, 2012, the Treasury Department and the IRS issued proposed regulations on the Employer Shared Responsibility provisions. Comments may be submitted electronically, by mail or hand delivered to the IRS. For additional information on the Employer Shared Responsibility provisions and the proposed regulations, see our questions and answers. Other information, much of which has been incorporated into the proposed regulations, may be found in news releases IR-2011-92 and IR-2011-02 and Notices 2011-73, 2011-36, 2012-17 and 2012-58. Additionally, Notice 2012-03 provides related guidance for group health plans on the waiting periods they may apply before starting coverage.

Patient-Centered Outcomes Research Institute

The Affordable Care Act establishes the Patient-Centered Outcomes Research Institute. Funded by the Patient-Centered Outcomes Research Trust Fund, the institute will assist patients, clinicians, purchasers and policy-makers in making informed health decisions by advancing clinical effectiveness research. The trust fund will be funded in part by fees paid by issuers of certain health insurance policies and sponsors of certain self-insured health plans.

The IRS and the Treasury Department have issued final regulations on this fee.

Retiree Drug Subsidies

Under § 139A of the Internal Revenue Code, certain special subsidy payments for retiree drug coverage made under the Social Security Act are not included in the gross income of plan sponsors. Plan sponsors receive these retiree drug subsidy payments based on the allowable retiree costs for certain qualified retiree prescription drug plans. For taxable years beginning on or after Jan. 1, 2013, new statutory rules affect the ability of plan sponsors to deduct costs that are reimbursed through these subsidies. See our questions and answers for more information.

For More Information

For tips, fact sheets, questions and answers, videos and more, see our Affordable Care Act of 2010, News Releases, Multimedia and Legal Guidance page.

*Page Last Reviewed or Updated: 06-Mar-2013*

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## Additional Resources

- Other health care resources:
  - HealthCare.gov
  - Medicare.gov

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