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Date: December 11, 1998
To: Associate Vice Presidents/Deans of Faculty
Human Resources Directors
From: Cathy Robinson
Senior Director
Human Resources Administration
Code: TECHNICAL LETTER
HR/Benefits
98-13
Subject: Meal Reimbursements for Travel Less Than 24 Hours

For reference, we have attached the State Controller's Office (SCO) Payroll Letter #98-038 which provides revised tax and reporting instructions affecting meal reimbursements for travel less than 24 hours. This letter was issued by the SCO in response to a SCO legal opinion that under federal and California law, the employer must report meal reimbursements as taxable income for employees who are on business travel for less than 24 hours when their travel does not require an overnight stay.

CR/lb

Attachment

Distribution: All with Attachment

Presidents
Interim Senior Director, Human Resources
Vice Presidents, Academic Affairs
Vice Presidents, Administration
Vice Presidents, Deans of Students
Chief Advancement Officers
Employee Relations Designees

Employee Relations
Business Managers
Budget Officers
Accounting Directors
Payroll Supervisors
Chancellor's Office Staff

STATE OF CALIFORNIA

KATHLEEN CONNELL,
Controller of California

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OFFICE OF STATE CONTROLLER
PERSONNEL/PAYROLL SERVICES DIVISION
300 Capitol Mall
P.O. Box 942850
Sacramento, CA 94250-5878

DATE: December 1, 1998

PAYROLL LETTER # 98-038

TO: All Agencies/Campuses in the Uniform State Payroll System

FROM: RALPH ZENTNER, Chief
Personnel/Payroll Operations Bureau

RE: MEAL REIMBURSEMENTS FOR TRAVEL LESS THAN 24 HOURS

PLEASE CHECK WITH YOUR ACCOUNTING OFFICE TO DETERMINE WHETHER IT RECEIVES PAYROLL LETTERS VIA OFFICEVISION. IF IT DOES NOT, PLEASE PROVIDE A COPY OF THIS LETTER TO THEM.

This letter provides revised tax and reporting instructions affecting meal reimbursements for travel away from home for less than 24 hours wherein neither an overnight stay nor substantial sleep/rest are required.

GENERAL INFORMATION

Internal Revenue Code (IRC) 162(a) requires that meal expenses, reimbursed by an employer to an employee, for travel away from home for less than 24 hours wherein neither an overnight stay nor substantial sleep/rest are required, represent taxable and reportable income. Meal reimbursements, even when paid under an employer's accountable reimbursement plan provisions, do not qualify as "business expenses". Rather, these meal reimbursements are a "personal expense" under the IRC, Sections 162(a) and 62(c).

Effective January 1, 1999, all meal reimbursements for daily travel of less than 24 hours, except as noted below, are taxable and reportable income. The reimbursements are subject to Federal and State Income and applicable Social Security/Medicare taxes.

DETERMINATION OF TAXABILITY

Taxable and Reportable Travel Related Meal Reimbursements

All meal reimbursements for travel for less than 24 hours are taxable and reportable unless:

- * Travel requires an overnight stay (lodging)

OR

- * Travel satisfies the three Sleep/Rest Rule provisions required by IRS Announcement 90-127:

- the trip lasts substantially longer than an ordinary day's work
- AND
- the employee cannot reasonably be expected to make the trip without being released from duty for sufficient time to obtain substantial sleep/rest. NOTE: the IRS has ruled that brief rest periods, few hours or less, do not satisfy the definition of substantial sleep/rest
- AND
- the release from duty is with the employer's tacit or expressed acquiescence or is required by governmental regulations.

The Sleep/Rest Rule generally applies to employment occupations, by the nature of the work performed (truck drivers, airline pilots and other transportation jobs entailing the safe operation of equipment), which require limited work shifts, followed by a substantial sleep/rest period, before an employee is allowed to begin a new work shift or continue a trip.

EXAMPLE 1 (TAXABLE): An employee drives from Sacramento to San Francisco leaving at 5:00 a.m. and returning at 6:00 p.m. The employee is entitled, under the employer's (accountable or non-accountable) reimbursement plan, to \$6.00 for breakfast. Since the employee did not require an overnight stay nor were the Sleep/Rest Rule provisions satisfied, the \$6.00 is taxable and reportable income.

EXAMPLE 2 (TAXABLE): An employee flies from Los Angeles to San Francisco, leaving at noon and returning at 10:00 p.m. The employee is entitled, under the employer's (accountable or non-accountable) reimbursement plan to \$18.00 for dinner. Since the employee did not require an overnight stay nor were the Sleep/Rest Rule provisions satisfied, the \$18.00 is taxable and reportable income.

Non-taxable and Non-reportable Travel Related Meal Reimbursements

Meal reimbursements, for travel for less than 24 hours when paid under accountable plan provisions are non-taxable and non-reportable when:

- * travel requires an overnight stay (lodging)

OR

- * travel satisfies the three Sleep/Rest Rule provisions noted above.

EXAMPLE 3 (NON-TAXABLE): An employee flies from San Diego to Sacramento leaving at 4:00 p.m., spending the night at a hotel and returning to San Diego the next day at 10:30 a.m. The employee is entitled, under the employer's accountable reimbursement plan, to claim \$18.00 for dinner and \$6.00 for breakfast. Although the trip was less than 24 hours, because of an overnight stay was required, the dinner and breakfast reimbursements are non-taxable, non-reportable income.

EXAMPLE 4 (NON-TAXABLE): An employee, a truck driver, is scheduled for a round trip run between Los Angeles and Sacramento. The employee leaves Los Angeles at 4:00 a.m. and returns to Los Angeles at 11:00 p.m. The employer requires the employee to secure 4 hours of rest in Sacramento before beginning the return portion of the trip. The employee is entitled, under the employer's accountable reimbursement plan to claim \$6.00 for breakfast and \$18.00 for dinner. Because the Sleep/Rest Rule provisions were satisfied, the breakfast and dinner reimbursements are non-taxable, non-reportable income.

REPORTING REQUIREMENTS

Taxable meal reimbursements must be reported monthly to the State Controller's Office via Form STD. 676P, NON-USPS ADJUSTMENT REQUEST -- PAYMENTS. Forms must be submitted by the 10th of the month following the month in which the payments were made.

FORM STD. 676 COMPLETION INSTRUCTIONS

When completing the Form STD 676P, please refer to the Payroll Procedures Manual (PPM), Section I-163. The following Item Code and Item Description must be entered on the Form STD. 676P when reporting taxable meal reimbursements:

<u>Item Code</u>	<u>Item Description</u>
MP	Meals and Lodging - Per Diem

WITHHOLDING REQUIREMENTS

Taxable meal reimbursements are subject to Federal/State Income and applicable Social Security/Medicare taxes. All taxes will be withheld from a subsequent, regular payroll warrant.

EMPLOYEE NOTIFICATION

Please advise your employees of the revised tax withholding and reporting requirements. As these requirements represent a significant change in meal taxability, employees should be aware of the tax implications before traveling.

CONTACTS

PPM revisions are forthcoming. Please use the following contacts for assistance:

Form STD. 676 Completion	
Payroll Operations	(916) 322-8100
W-2 Unit	CALNET 492-8100

Reporting Requirements	
Jim Fiack	(916) 322-8128
Tax Support Section	CALNET 492-8128

RZ: JF/TSS