The California State University
Office of the Chancellor
400 Golden Shore
Long Beach, CA 90802-4275
(310) 985-2669

Date: May 15, 1995

To: Personnel Officers

From: Cathy Robinson, Director
Human Resources Administration

Subject: CSU-Owned Housing/Lodging

In light of recent IRS developments related to employer-provided housing/lodging regulations, the State Controller’s Office (SCO) recently issued Payroll Letter #95-006 (copy attached) which defines reporting and withholding requirements as they pertain to CSU-Owned Housing/Lodging. California State University (CSU) employees who reside in housing which does not meet IRS requirements for tax exclusion will incur taxable reportable income for the value of the housing.

Section 160 of the CSU Internal Procedures Governing Reimbursement for Travel Expenses and Allowances; Rates for Housing and Lodging lists campus houses available for employees at the following campuses: California State University, Chico; California State Polytechnic University, Pomona; and California State Polytechnic University, San Luis Obispo. Rent and utility payments required for occupancy are also detailed in Section 160. In addition to houses listed in Section 160, any other current or future housing/lodging benefits provided to CSU employees would fall under the IRS regulations for taxability of housing/lodging.

Refer to the attached SCO Payroll Letter for general information on employer provided housing and taxability issues. Please be advised that Fair Market Value (FMV) determinations shall be made by each campus.

If you have any questions, please contact Human Resources Administration at (310) 985-2672.

Thank you.

CR/lb
Attachment

Distribution:

- Presidents
- Vice Chancellor, Human Resources and Operations
- General Counsel
- Vice Presidents, Administration
- Budget Officers
- Payroll Supervisors
STATE OF CALIFORNIA

KATHLEEN CONNELL,
Controller of California

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

DATE: May 9, 1995

PAYROLL LETTER # 95-006
CSU ONLY

TO: All Campuses in the Uniform State Payroll System

FROM: RALPH ZENTNER, Chief
Personnel/Payroll Operations Branch

RE: HOUSING/LODGING REPORTING AND WITHHOLDING REQUIREMENTS

***********************************************************************
PLEASE NOTE: YOU WILL NOT RECEIVE A HARD COPY OF THIS
PAYROLL LETTER
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PLEASE SHARE THIS INFORMATION WITH ALL EMPLOYEES WHO
RECEIVE CALIFORNIA STATE UNIVERSITY (CSU) PROVIDED
HOUSING/LODGING.

This Payroll Letter defines reporting and withholding
requirements as they pertain to the CSU Housing/Lodging
policy. The Chancellor’s Office has advised the State
Controller’s Office (SCO) that additional information
regarding Housing/Lodging will soon be released via a Human
Resources Technical Letter.

GENERAL INFORMATION

The difference between the Fair Market Value of
employer-provided Housing/Lodging and the rent an employee
pays is taxable reportable income, unless exempt by
Internal Revenue Service (IRS) criteria.

IRS Codes and Regulations state that the value of employer-
provided Housing/Lodging may be excluded from gross income
if the requirements in IRS Code Section 113-1(b) are met.
The value of employer-provided Housing/Lodging not meeting
these criteria is a taxable fringe benefit under IRS Code
Section 61 and Regulation Section 1.61-21(e). Criteria for
determining taxability are summarized below.
The value of employer-provided Housing/Lodging may be excluded from taxation as a fringe benefit if certain conditions are met. The Housing/Lodging may be excluded from taxation if all three of the following conditions are met:

1. **On the business premises of the employer**

   The business premises of the employer is generally defined as the place where the employee performs a significant portion of his/her duties. To meet this requirement, the Housing/Lodging must be on the premises, not near such premises.

2. **For the convenience of the employer**

   For the convenience of the employer means that the employer has a substantial non-compensatory business reason to provide the Housing/Lodging to the employee. This determination is made on a case-by-case basis. For example, Housing/Lodging furnished to an employee so that the employee is available for night emergency duty may qualify as Housing/Lodging furnished for substantial, non-compensatory business reasons.

3. **As a condition of employment**

   A condition of employment means that the employee is required to accept the Housing/Lodging to properly perform the duties of the job. However, it is not enough that the employee is compelled by the employer to live on the premises. He/she must be compelled to do so because the on-site lodging is indispensable to the proper discharge of their duties.

   Therefore, an employer may not simply declare that lodging is being furnished as a condition of employment. An employer must demonstrate or show some need for the employee to live on the business premises, in order to satisfy the condition-of-employment test.
TAXABLE HOUSING/LODGING REQUIREMENTS -- IRS Code Section 61 and Regulations Section 1.61-21(b)

The value of Housing/Lodging not meeting all three (3) criteria is regulated by IRS Code Section 61 which states: "Gross income means all income from whatever source derived including... fringe benefits." IRS Regulation Section 1.61-21(b) requires the Fair Market Value (FMV), less any amount paid by the recipient, to be included in the employee's gross income.

IRS Regulation Section 1.61-21(b) defines FMV. "FMV of a fringe benefit is the amount that an individual would have to pay for the particular fringe benefit in an arm's-length transaction...." FMV equals the amount for which the property would rent in an open market between a willing lessor and lessee.

CSU informed the SCO that consistent with the intent of the IRS, FMV determinations shall be made by each campus. Campuses may have the FMV determination made by a local appraiser or real estate service. A FMV determination should take into consideration guidance presented in the definition of FMV in IRS Regulations Section 1.61-21(b).

HOUSING/LODGING TAXATION EXAMPLES

Non-taxable example: An employee is hired by CSU. As a condition of employment, the employee is required to reside in a CSU-owned house. The house is on CSU's business premises and is provided for the convenience of CSU, not the employee. All three conditions of IRS Regulation Section 1.119-1(b) are met. The value of the Housing/Lodging is a non-taxable, non-reportable fringe benefit.

Taxable example 1: An employee working for CSU is provided a house. The employee, however, has the option of living in the house. Therefore, the condition of IRS Regulations Section 1.119-1(b) is not met. FMV for the house is $400/month. The FMV ($400) equals the taxable and reportable fringe benefit amount.

Taxable example 2: An employee working for CSU is rented a house. FMV for the house is $400/month. The employee, however, pays only $225/month rent. The FMV ($400), less amount paid by the employee ($225), equals the taxable and reportable fringe benefit amount ($175).
REPORTING REQUIREMENTS

Taxable Housing/Lodging amounts must be reported to SCO via Form STD. 676 (revised 5/94), Non-USPS Adjustment Request (Fringe Benefit/Employee Business Expense). General reporting instructions are found in Payroll Procedure Manual Section I-163. Forms must be submitted monthly to the SCO, W-2 Unit.

The following Item Code and Item Description must be entered on the Form STD. 676 for Housing/Lodging values:

<table>
<thead>
<tr>
<th>ITEM CODE</th>
<th>ITEM DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>HV</td>
<td>Housing/Lodging - Value of State Housing</td>
</tr>
</tbody>
</table>

WITHHOLDING REQUIREMENTS

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

CONTACTS

Please use the following contacts for required assistance:

Fair Market Value Questions
CSU Chancellor's Office
Lisa Boyd
Human Resources

Reporting Requirements
Jim Fiack
Tax Support Section

RZ:TSS/JF