

Taxable Fringe Benefits

**WV State Auditor's Office
Local Government Services Division**

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Presented to ASBO Spring 2025

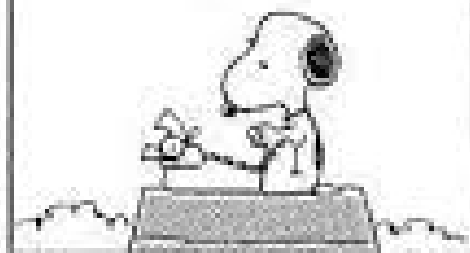
DISCLAIMER

- Information presented today is to the best of our understanding from communication with Federal, State and Local Government Specialists of the IRS.
- Contact information is available at the end of the presentation

DISCLAIMER

- This is for Information Only and should NOT be considered official guidance.

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Fringe Benefits

- Any property, service, or cash (other than salary) provided by an employer
- Taxable
 - Unless specifically excluded by law
 - Example: Medical Premiums (IRC 106)
- IRC 132 – General Fringe Benefit Section

Fringe Benefits

- ① Identify benefits provided
- ① Determine if excluded by law
- ① If not excluded then
 - Determine if fully or partially taxable

Non-Taxable Fringe Benefits:

- Employer paid health reimbursements or health insurance (IRC §104, §106)
- Certain Cafeteria Plan Benefits (IRC §125)
- Working condition fringe (IRC §132)
- De minimis fringe (IRC §132)
- Qualified transportation expenses (IRC §132)
- Deferred compensation plans (IRC §457(b))

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Taxable Fringe Benefits:

- Everything Else

- Include in employee wages
 - Never on 1099-MISC
- Subject to employment tax withholding
 - Same rates as regular wages
- Even when benefit is received by/for spouse or child of employee

Common Taxable Fringe Benefits:

- Cash
- Stipends
- Awards & prizes
- Personal use of employer vehicle
- Clothing - sometimes
- Meals - sometimes

Cash/Stipend

- Taxable - always



Bonus

- Article VI, Section 38 of the WV Constitution
 - > No extra compensation shall be granted or allowed to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract made
- West Virginia Code §12-3-13
 - > No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered.



Awards

Taxable

- Cash prizes/awards
- Performance awards
- Non-Cash
 - > Use Fair Market Value

Except for:

Awards

Exceptions

- ⦿ Certain awards transferred to charities
- ⦿ Certain employee achievement awards
 - Length of service or safety – Not Cash
- ⦿ Nominal holiday/special occasion
 - Coffee mugs, plaques

Vehicle – Employer Provided

- Personal Use is taxable
- Verified Business Use is not taxable
- If no record is kept, all use is considered personal, taxable
 - Employee can reimburse employer for personal use

Valuing Personal Use

- THREE Rules

- Automobile Lease Valuation Rule
- Cents-Per-Mile Rule
- Commuting Rule

Ethics - Vehicle

ADVISORY OPINION NO. 2013-57

Originally Issued on December 12, 2013 and

Ratified on January 21, 2014 by

THE WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **County Commission** asks whether it is permissible to exempt certain emergency services employees from reporting mileage for personal vehicle use as a taxable fringe benefit.

Ethics - Vehicle

- “...the Commission recognized the potential liability costs...”
 - > To the individual
 - > To another individual
 - > To property of another
 - > To the equipment
- The Commission hereby finds that personal use of a public vehicle is not ‘the performance of usual and customary duties associated with the office’

Ethics - Vehicle

“Therefore, the Ethics Commission hereby finds that the Ethics Act **prohibits public servants’ personal use of** clearly marked emergency services **vehicle for any personal purpose other than commuting.** This opinion is prospective.”

Qualified Non-Personal Use Vehicles

- Police and Fire vehicles/Ambulance
 - Dump Truck
 - Utility repair truck (significantly modified)
 - School Bus
-
- Must have a policy restricting personal use

Clothing

- Specifically required as a condition of employment

AND

- Are not worn or adaptable to general usage as ordinary clothing.

Clothing

Nontaxable

- Uniform



- Rented clothing is also a taxable fringe benefit

Taxable

- Polo Shirt
- T-Shirt
- Boots
- Socks
- Shoes
- Ball Cap
- Plain Belt
- Jeans
- Carhart Jacket

- Cleaning of taxable clothing is also a taxable fringe benefit

Meals

- Let's discuss **Per Diem**, rather than limiting ourselves to meals.

Meals

- Meals as part of a registration fee are nontaxable
- IRC 119 (Meals and Lodging)

Per Diem

- Reimbursement or daily allowance to employees for business expenses associated with overnight travel
- Tax free if:
 - Accountable plan rules followed
 - Per diem rates at or below federal rates
 - Receipts not required

Accountable Plan

- ⦿ Business connection
- ⦿ Adequate 'accounting' by employee
 - > Date, time, place, business purpose, amount
 - > In a reasonable time period
- ⦿ Excess reimbursement returned
 - > In a reasonable time period

Non-Accountable Plan:

- ⦿ Does NOT meet all 3 requirements for an Accountable Plan
- ⦿ Benefit is fully taxable when paid

Per Diem

- Rates vary by City

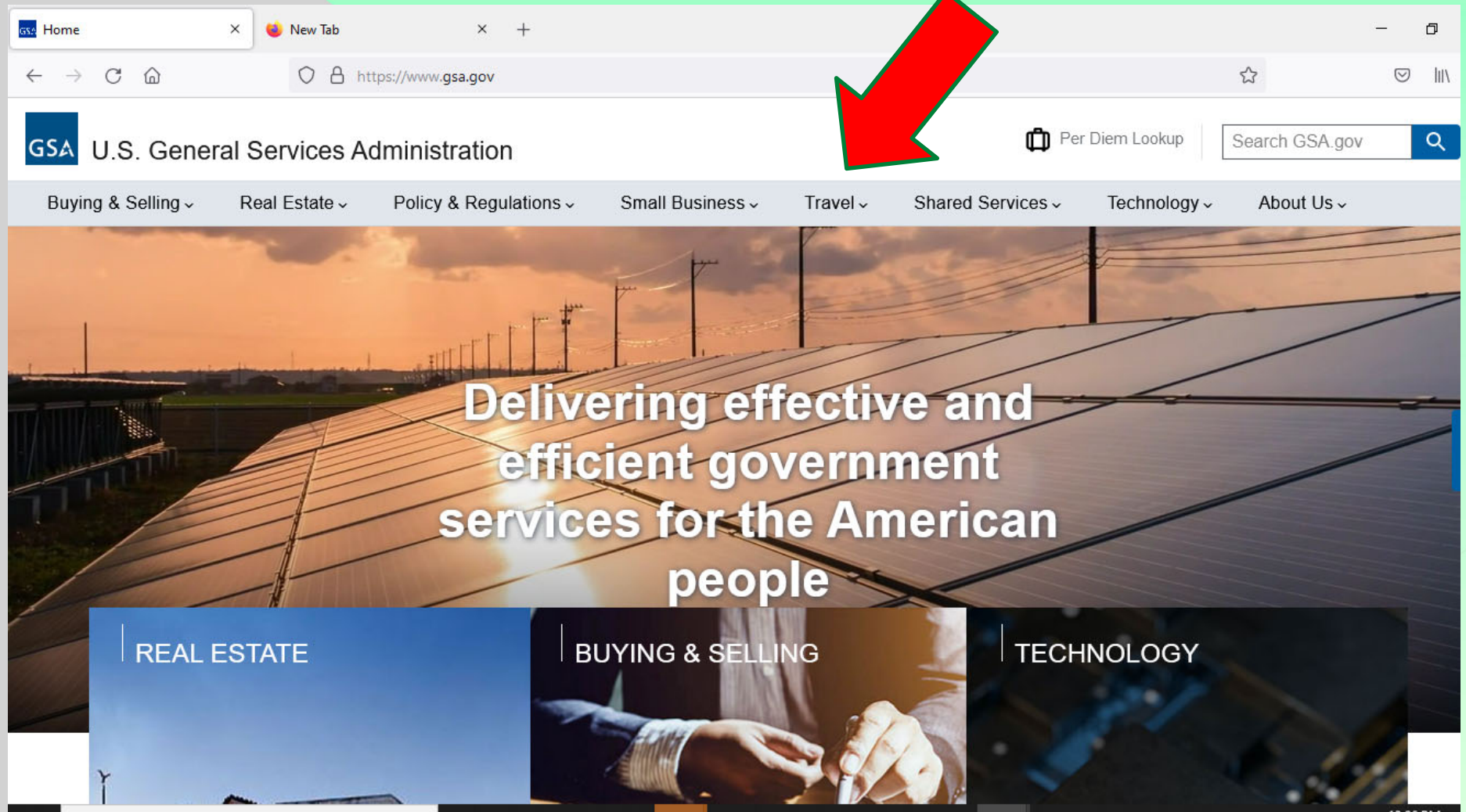
- > Lodging
- > Meals and incidental expenses (M&IE)

- www.gsa.gov

Per Diem

- Set daily rate
- Prorate for days employee departs and returns
 - Employer may pay other tax-free business expenses in addition to per diem

www.gsa.gov



The image is a screenshot of a web browser displaying the official website of the U.S. General Services Administration (GSA). The browser's address bar shows the URL <https://www.gsa.gov>. A large red arrow with a green outline points from the top right towards the address bar. The website header features the GSA logo and the text "U.S. General Services Administration". To the right of the header is a "Per Diem Lookup" button and a search bar labeled "Search GSA.gov". Below the header is a navigation menu with the following items: "Buying & Selling", "Real Estate", "Policy & Regulations", "Small Business", "Travel", "Shared Services", "Technology", and "About Us". The main content area has a background image of solar panels at sunset. Overlaid on this image is the text "Delivering effective and efficient government services for the American people". At the bottom of the page, there are three horizontal panels with the following titles: "REAL ESTATE", "BUYING & SELLING", and "TECHNOLOGY".

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- Plan a trip >
- Travel and lodging services >
- Federal travel regulation

FEATURED TOPICS

Per diem rates look-up
Allowances for lodging, meal and incidental costs while on official government travel.

Mileage reimbursement rates
Reimbursement rates for the use of your own vehicle while on official government travel.

American people

Glossary



Travel resources

[Per diem](#) [Airfares](#) [Hotels](#) [POV mileage](#)

PER DIEM LOOK-UP

1 Choose a location

State

West Virginia

City (optional)

OR

ZIP

Rates for Alaska, Hawaii, and U.S. territories and possessions are set by the [Department of Defense](#).

Rates for foreign countries are set by the [Department of State](#).

2 Choose a date

Select fiscal year

2025 (Current fiscal year)

Travel start date (mm/dd/yyyy)

OR

Travel end date (mm/dd/yyyy)

Rates are available between 10/1/2022 and 09/30/2025.

Reset

Search



FY 2025 per diem rates for West Virginia

Change fiscal year: 2025 2024 2023 or [New search](#)

Daily lodging rates (excluding taxes) | October 2024 - September 2025



Cities not appearing below may be located within a county for which rates are listed. To determine the county a destination is located in, visit the [Census Geocoder](#).

Filter results...

Primary destination ⓘ	County ⓘ	2024 Oct	Nov	Dec	2025 Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Standard Rate	Applies for all locations without specified rates	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$110
Charles Town	Jefferson	\$122	\$122	\$122	\$122	\$122	\$122	\$122	\$122	\$122	\$122	\$122	\$122
Charleston	Kanawha	\$115	\$115	\$115	\$115	\$115	\$115	\$115	\$115	\$115	\$115	\$115	\$115

Showing 1 to 3 of 3 entries



Meals and incidental expenses (M&IE) rates and breakdown



The M&IE total is the full daily amount for a single calendar day when that day is neither the first nor last day of travel. The amount received on the first and last day of travel equals 75% of the M&IE total. See [M&IE breakdowns](#) for information related to the individual meal amounts.

Filter results...

Primary destination ⓘ	County ⓘ	M&IE total	Breakfast	Lunch	Dinner	Incidental expenses	First and last day of travel
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Meals and incidental expenses (M&IE) rates and breakdown



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Filter results...

Primary destination ⓘ	County ⓘ	M&IE total	Breakfast	Lunch	Dinner	Incidental expenses	First and last day of travel
Standard Rate	Applies for all locations without specified rates	\$68	\$16	\$19	\$28	\$5	\$51.00
Charles Town	Jefferson	\$68	\$16	\$19	\$28	\$5	\$51.00
Charleston	Kanawha	\$68	\$16	\$19	\$28	\$5	\$51.00

Showing 1 to 3 of 3 entries

I'm interested in:

[New search](#)

Additional per diem topics

- [Meals & Incidental Expenses breakdown \(M&IE\)](#)

Need more information?

- [Rates for Alaska, Hawaii, U.S. territories and](#)

Related topics

- [Travel resources](#)

Per Diem

- Breakfast

- > 16

- Lunch

- > 19

- Dinner

- > 28

- Incidental

- > 5

- Total standard rate

- > 68

- Travel days (75%)

- > 51

Vehicle - personal

- Employee Vehicle used for Employers Business
 - 2025 Federal Mileage Rate \$0.70
 - At this rate or less – Non-taxable to employee
 - Above this rate – Taxable (the excess amount)
 - If employee chooses not to get reimbursed, cannot claim on personal tax return
 - Substantiation required

Substantiation

- Employee reports to employer:
 - Date, purpose, place of each trip
 - Mileage 'at or near the time' incurred
 - Examples: Diary, log, trip sheet, expense settlement, etc.
 - Commuting is always taxable – it is non-business travel
 - Except police officers in police cruisers

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Plan a trip

[Overview](#)[Per diem rates](#)[Transportation \(airfare rates, POV rates, etc.\)](#)[Privately owned vehicle \(POV\) mileage reimbursement](#)[POV mileage rates \(archived\)](#)[Airfare rates - City Pair Program](#)[Rail travel](#)[Lodging](#)[Travel charge card/account](#)

Privately owned vehicle (POV) mileage reimbursement rates




GSA has adjusted all POV  mileage reimbursement rates effective January 1, 2025.

Modes of transportation	Effective/applicability date	Rate per mile
Airplane*	January 1, 2025	\$1.75
If use of privately owned automobile is authorized or if no government-furnished automobile is authorized and available	January 1, 2025	\$0.70
If government-furnished automobile is authorized and available	January 1, 2025	\$0.21
Motorcycle	January 1, 2025	\$0.68

Relocation	Effective/applicability date	Rate per mile
Standard mileage rate for moving purposes	January 1, 2025	\$0.21

* Airplane nautical miles (NMs) should be converted into statute miles (SMs) or regular miles when submitting a voucher using the formula (1 NM equals 1.15077945 SMs).

For calculating the mileage difference between airports, please visit the U.S. Department of Transportation's [Inter-Airport Distance](#)  website.

QUESTIONS:

For all travel policy questions, email travelpolicy@gsa.gov.

Questions

Have travel policy questions?
Use our '[Have a Question?](#)' site

Transportation

- Generally speaking
 - Board vehicle
 - Personal vehicle
- IRC § 132(f)(1); Treas. Reg. § 1.132-9(b)
 - For other transportation fringe benefits

Travel Expenses

- On business outside their home tax area
 - Such as
 - Travel to and from destination
 - Transportation costs
 - Lodging, meals and incidental expenses
- If not outside home tax area - taxable

Tax Home / Travel Expenses

- Tax home is: General vicinity of regular/principal place of business
- Away from home is interpreted by the U.S. Supreme Court to require:
 - Travel overnight, or
 - Travel long enough to require substantial “sleep or rest”

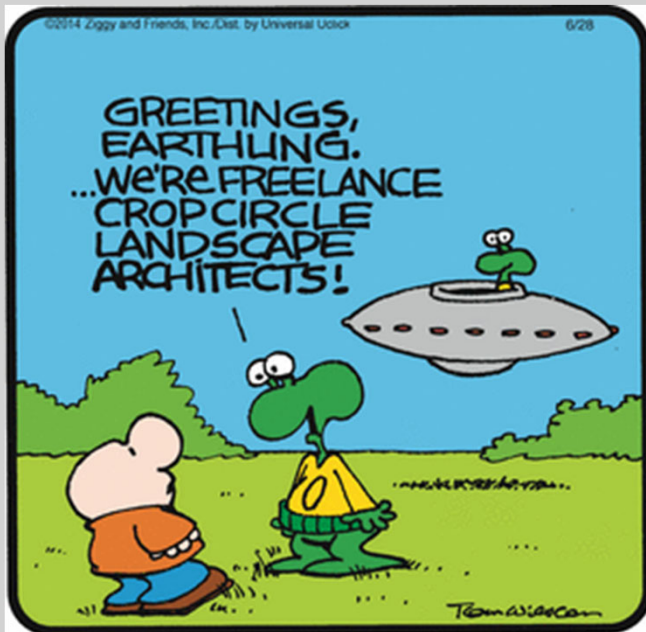
Substantiation

- Depends on your policy
 - Actual (receipts)
 - Per Diem (travel voucher, expense settlement, log)
 - Date, time, purpose, place, amount
- Non-travel expenses would be actual

Resources

- www.irs.gov/govts
- www.irs.gov/formspubs
- Publication 463 – Travel, Gift and Car Expenses
- Publication 5137 – Fringe Benefit Guide
- Publication 15-B – The Employer's Taxable Fringe Benefit Guide

Employee vs. Independent Contractor



Employee Defined

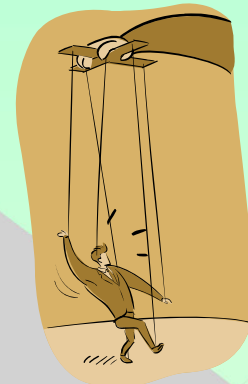
- ◎ Common Law Standard
 - > Employer/Employee relationship exists when the business has the right to direct and control worker
 - > What work shall be done
 - > How work shall be done

Independent Contractor

- ◉ Individual who performs service under an arrangement
 - > Control is limited to the arrangement.

Categories of Evidence

- Three Factors
 - Behavioral control
 - Financial control
 - Relationship of parties



Behavioral Control

- ◉ If the Government provides:
 - > Instructions on how to do the job
 - > what hours to work
 - > what equipment to use
 - > Training & procedures to follow
 - > Evaluations

The Worker is most likely an Employee

Financial Control

- ◉ If the Government provides:
 - > An office
 - > All office supplies
 - > Business equipment
 - > Hourly, weekly pay (as opposed to flat fee)

The Worker may be an
Employee

Relationship of Parties

- If the Government provides:
 - Health insurance, life insurance
 - Retirement benefits, 401 (k) plan

The Worker may be an
Employee

Independent Contractor

- Offers services to the public
- Operates own business
- Bills for services
- Doesn't have to personally perform the work

Bad Logic to be Contractor

- ⦿ Part time
- ⦿ Avoid benefits
- ⦿ Just a few weeks
- ⦿ Trial Period
- ⦿ Retired and re-hired
- ⦿ Avoid overtime
- ⦿ Funded position with a grant

Reporting for Employees

- All Compensation goes on W-2
 - > Awards
 - > Back pay
 - > Bonuses (don't do it)
 - > Severance pay
 - > Taxable fringe benefits

Reporting for Independent Contractors

- ◎ All Compensation for Services goes on 1099-MISC
 - If Non-accountable Plan:
 - Include Reimbursed Expenses on 1099-MISC


Travel Resources | GSA

Internal Revenue Service | An official website of the United States Government

Publication 5137, (Rev. 10-2022)

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Recent Developments

Changes in guidance, law and procedures that affect federal, state and local governments.

- IRS [increases mileage rate](#) for remainder of 2022 (August 25, 2022)
- [2023 inflation adjusted amounts for Health Savings Accounts](#) (August 25, 2022)

[Subscribe to Updates](#)

Employer Information

Tax responsibilities for government entities.

- [Answers to Common Questions](#)

Information Returns

Filing and reporting requirements.

- [Information Returns](#)

Related

- [Information Returns Guide](#)
- [Information Returns Reporting](#)

Taxpayer Identification Number (TIN) Matching

Tools for TIN matching and other e-Service:

- [TIN Matching](#)

Tax Withholding

Federal income, Social Security and Medicare tax withholding.

- [Tax Withholding for Government Workers](#)

Employer Payroll

Cash and non-cash benefits given to employees in addition to their base wage or salary.

- [Employer and Payroll Information](#)

Questions???

- 1-827-829-5500 – TE/GE toll-free tax help
- Patsy Kerns, FSLG Specialist
 - > 304-561-3010
- Internet:
 - > www.irs.gov/govts

