

Internal Revenue Code Section 132(d)

Certain fringe benefits.

- (a) Exclusion from gross income. Gross income shall not include any fringe benefit which qualifies as a—
 - (1) no-additional-cost service,
 - (2) qualified employee discount,
 - (3) working condition fringe,
 - (4) de minimis fringe,
 - (5) qualified transportation fringe,
 - (6) qualified moving expense reimbursement,
 - (7) qualified retirement planning services, or
 - (8) qualified military base realignment and closure fringe.
- (b) No-additional-cost service defined. For purposes of this section, the term "no-additional-cost service" means any service provided by an employer to an employee for use by such employee if—
 - (1) such service is offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services, and
 - (2) the employer incurs no substantial additional cost (including forgone revenue) in providing such service to the employee (determined without regard to any amount paid by the employee for such service).
- (c) Qualified employee discount defined. For purposes of this section—
 - (1) Qualified employee discount. The term "qualified employee discount" means any employee discount with respect to qualified property or services to the extent such discount does not exceed—
 - (A) in the case of property, the gross profit percentage of the price at which the property is being offered by the employer to customers, or

(B) in the case of services, 20 percent of the price at which the services are being offered by the employer to customers.

(2) Gross profit percentage.

(A) In general. The term "gross profit percentage" means the percent which—

- (i) the excess of the aggregate sales price of property sold by the employer to customers over the aggregate cost of such property to the employer, is of
- (ii) the aggregate sale price of such property.

(B) Determination of gross profit percentage. Gross profit percentage shall be determined on the basis of—

- (i) all property offered to customers in the ordinary course of the line of business of the employer in which the employee is performing services (or a reasonable classification of property selected by the employer), and
- (ii) the employer's experience during a representative period.

(3) Employee discount defined. The term "employee discount" means the amount by which—

- (A) the price at which the property or services are provided by the employer to an employee for use by such employee, is less than
- (B) the price at which such property or services are being offered by the employer to customers.

(4) Qualified property or services. The term "qualified property or services" means any property (other than real property and other than personal property of a kind held for investment) or services which are offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services.



(d) Working condition fringe defined. For purposes of this section, the term "working condition fringe" means any property or services provided to an employee of the employer to the extent that, if the employee paid for such property or services, such payment would be allowable as a deduction under section 162 or 167.