

# Will Your Club Be Compliant When The Revenuers Come!



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Recent Internal Revenue Services (“IRS”) activity indicates an interest in employment tax returns and compliance with related federal laws and regulations.

Should your club receive a notice that their employment tax returns are being examined, it may have been selected at random for a “compliance research examination.”

Whether selected at random or because of some indication that the returns are incorrect, an IRS examination can be a stressful and time-consuming process. IRS notice 1332 on randomly selected returns, states that the IRS is only trying to “improve our tax system and ensure that the federal tax system is administered fairly and that any errors on the examined returns will be corrected,” as they describe it. Let’s discuss what they are really looking for.

## WAGES, IS EVERYTHING REPORTED?

“The IRS defines the term wages as all remuneration for services performed by an employee for an employer, including the cash value of all remuneration including benefits paid in any medium other than cash.”

The question then becomes whether all taxable fringe benefits are reported as wages for the club’s employees. Whether in a competitive job market or not most clubs generally provide an array of nice fringe benefits, some of which are taxable as wages and others that are not. Many are included as part of the contractual arrangements with the general manager or other department heads and whether the benefits are taxable as wages is usually not addressed.

Here are some of the fringe benefits that I have come across in my club practice.

**Car allowance:** Generally, a car allowance is a taxable fringe benefit, unless it is part of an “accountable plan.” If the employee accounts for business miles, the business miles times the IRS mileage rate can be treated as a nontaxable fringe benefit. The excess is taxable. Commuting to and from work are personal, not business miles.

**Car loan paid directly to loan provider:** This would be taxable unless it was part of an accountable plan whereby the employee’s business miles times mileage rate could be treat-

ed as nontaxable. Direct employer payments for automobile insurance are also includable as wages.

**Club manager’s use of employer vehicles:** If part of an accountable plan, business miles can be excluded from employee’s income, but not personal use. Use the lease valuation method to determine amount to include in employees W-2. If employer pays for gasoline multiply personal miles times 5.5 cents to determine additional amount for gasoline.

**Dry cleaning of personal clothes:** Taxable, personal expense.

**Cleaning of uniforms:** If uniforms are required by employer and not suitable for street wear, nontaxable.

**Employee meals:** If provided for the convenience of the employer, on the employer’s premises, employee meals are generally not taxable.

**Vehicle given to former club manager:** If he is to get W-2 this year, add fair market value. If no W-2, I would issue a 1099-MISC.

**Club association dues:** If these are business associations (i.e. Club Managers Association etc), nontaxable.

**Travel and entertainment for club functions:** If part of his job responsibilities is to represent the club management, treat it as nontaxable.

**Golf events for managers:** If this is provided at no additional cost to the club, fair market value is not taxable. Otherwise determine whether this meets a business purpose or is purely personal. Personal expenses are includible in wages.

**Cell phones:** Business use is nontaxable. Personal use is taxable. If you require employees to carry cell phone for availability, base fee should be nontaxable.

**Clothing allowances to managers:** Unless the clothing is not suitable for street wear, this is a personal expense that is a taxable fringe benefit.

**Employee portion of medical, dental and life insurance:** If you do not have a self-funded (uninsured) health/dental plan, you can pay all insurance premiums without worrying about nondiscrimination rules. Premiums for life insurance in excess of \$50,000 are

included in W-2. There is a table available to calculate amount to include based on employee's age.

**Living accommodations provided to employees:** In order to exclude housing provided to employees, the housing must be on the business premises (where the bulk of the employer's business takes place or where the employee spends most of his work day). Also, the acceptance of the housing must be required by the employer and the job must be of a nature that requires the employee to live on site: IRS examples are a park ranger required to stay in park reserve to watch for fires: nontaxable. However, a golf superintendent required to monitor sprinklers at night was deemed to have a taxable fringe benefit. Suitable housing was available nearby and the superintendent could perform his job as well if he lived off site.

- Employment contracts
- Employee benefit program documentation
- Independent contractor agreements
- Board and committee minutes
- Annual report and audited financial statements, if applicable

**If you receive a notice, how should you proceed?** If you believe that your club has any exposure for any of these areas, now is the time to review the club's compliance with tax law and regulations. You should consult with your tax or accounting professional now to clarify if there is any exposure.

If you receive a notice, you should also contact your tax or accounting professional to plan a strategy for facilitating the

The IRS agent will request all items related to payroll and payroll tax reporting. In addition, they will look at disbursement records and focus on payments to individuals. They will compare payments to individuals to amounts reported on IRS Form 1099. The agent will review the club's independent contractor relationships to determine if the independent contractors are appropriately classified. The misclassification of employees as independent contractors can be a significant issue in a payroll tax audit since it could result in a significant assessment of payroll taxes, interest and penalties.

#### WHAT WILL THE AGENT ASK TO LOOK AT?

The IRS agent will request all items related to payroll and payroll tax reporting. In addition, they will look at disbursement records and focus on payments to individuals. They will compare payments to individuals to amounts reported on IRS Form 1099.

The agent will review the club's independent contractor relationships to determine if the independent contractors are appropriately classified. The misclassification of employees as independent contractors can be a significant issue in a payroll tax audit since it could result in a significant assessment of payroll taxes, interest and penalties.

In addition, business expense reimbursements to employees will be scrutinized for "proper" support and classification as a business expense. You should also expect them to review the following, which are in no particular order of importance:

- Personnel policies and procedures, including employee handbooks

audit and handling the agent. Usually the agent will visit you and tour your facilities.

When scheduled, all club personnel should be informed of the agent's visit and be advised not to casually discuss business matters around the agent. The club has the right to use professional representation during the examination and I strongly recommend that course of action. It is preferable to have the examination take place off the club's premises so that any intended or even unintended contact with club personnel is avoided. **BR**

*Bob Salmore is a director with McGladrey, the nation's 5th largest provider of assurance, tax and consulting services. He has more than 30 years of experience in providing audit, accounting and operations consulting to the hospitality and club industries. Bob manages approximately 50 annual financial audits of private clubs and is seen as a leader in his service to the industry. Bob can be reached at bob.salmore@McGladrey.com or (561) 697-1785 or (800) 966-0428.*