

## Taxability of fringe benefits to partners, LLC members, and >2% shareholders of S corporations

Some fringe benefits that are excludable from taxation for employees are reported as taxable income for shareholder-employees of S corporations who own more than 2% of the outstanding stock, partners in partnerships, and members of LLCs. Reporting as taxable income is generally accomplished in the following manner for each of the two types of recipients:

- >2% S corporation shareholder: Added to wages on W-2
- Partner: Treated as guaranteed payment

The following chart shows the entity-level tax reporting of fringe benefits provided to partners in partnerships (and members of LLCs taxed as partnerships) and >2% shareholders in S corporations. Note that the TCJA has made changes to fringe benefit rules as described in the table. The various types of fringe benefits are listed in the same order as they appear in the foregoing chart for their treatment with respect to employees, and exempt status is indicated with a ✓ mark:

Type of fringe benefit	Partners	>2% S corp. shareholders
Accident and health insurance	Taxable	Taxable
Achievement awards <sup>3</sup>	✓	✓
Adoption assistance <sup>1</sup>	Taxable	Taxable
Athletic facilities on premises <sup>4</sup>	✓	✓
<i>De minimis</i> benefits	✓	✓
Dependent care assistance <sup>1</sup> —Limits apply	✓	✓
Educational assistance—Limit: \$5,250	✓	✓
Employee discounts <sup>1</sup> —Limits apply	✓	✓
Employer-provided cell phones <sup>5</sup>	✓	✓
Group term life insurance <sup>1</sup>	Taxable	Taxable
Health savings accounts—Limits apply	Taxable	Taxable
Lodging on business premises <sup>6</sup>	Taxable	Taxable
Meals—on premises <sup>7</sup>	Taxable	Taxable
Meals— <i>de minimis</i> <sup>7</sup>	✓	✓
Moving expense reimbursements	Taxable	Taxable
No-additional-cost services <sup>1</sup>	✓	✓
Retirement planning services <sup>8</sup>	✓	✓
Transportation and parking benefits <sup>9</sup>	Taxable	Taxable
Working condition benefits	✓	✓

**Notes:**

<sup>1</sup>Subject to nondiscrimination rules.

<sup>2</sup>Not including long-term care through FSA or similar arrangement.

<sup>3</sup>Tangible personal property only per the TCJA. No cash, gift cards, vacations, meals, and so on.

<sup>4</sup>Must be on employer premises and substantially all use is by employees and related individuals.

<sup>5</sup>Must be for noncompensatory business purpose.

<sup>6</sup>Must be for convenience and as a condition of employment.

<sup>7</sup>Paid or incurred after December 31, 2017 only 50% deductible; after December 31, 2025 nondeductible.

<sup>8</sup>Must not be for tax preparation, accounting, legal and brokerage services.

<sup>9</sup>The TCJA made nondeductible unless for employee safety. Bicycle reimbursement no longer exempt.