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Fact Sheet

FINANCE AND ACCOUNTING OFFICE GUIDANCE FOR TAXATION  
AND REPORTING OF CIVILIAN PCS REIMBURSEMENTS

Employer reimbursements for an employee's moving expenses incurred after 1993 are treated as a fringe benefit excludable from the employee's gross income and wages if (1) the expenses would be deductible by the employee if he or she had directly paid or incurred the expenses, and (2) the employee did not deduct the expenses in a prior year.

Reimbursements made in 1994 that qualify as an excludable fringe benefit are not reported in box 1 of the 1994 Form W-2, but must be reported in box 13.12 Code "P" is used to identify these nontaxable reimbursements in box 13.12

Reimbursements made after 1993 for moving expenses incurred after 1993 that do not qualify as an excludable fringe benefit are included in the employee's wages. IRS Publication 15, Rev. January 1994, states "unless the law says otherwise, you must include fringe benefits in an employee's gross income. The benefits are subject to income and employment taxes."

The moving expense mileage requirement has increased from 35 miles to 50 miles. The principal place of work must be at least 50 miles farther from the taxpayer's old residence than the old residence was from the old place of work. If this test is not met, the employee is not entitled to any moving expense deductions and an agency must report wages, withhold income taxes, and collect Federal Insurance Contributions Act contributions. The mileage limitation does not apply to military members.

The OBRA of 1993, Pub. L. No. 103-66, 107 Stat. 312, disallows a moving expense deduction for expenses incurred after December 31, 1993, for househunting trips, living in temporary quarters near the new job, real estate expenses for the old and new residence, and meals during the actual move. Previously, an employee could deduct these expenses up to certain dollar limits.

The OBRA retained the tax deduction for reasonable expenses incurred in moving household goods and personal effects from the former residence to the new residence, 30 consecutive days of temporary storage, and en route lodging and transportation of the employee and the immediate family. Agencies should withhold on all other relocation payments, except the following payments:

- a) Separate maintenance allowance, temporary quarters subsistence allowance, living quarters allowance, post allowance, supplementary post allowance, foreign transfer allowance, educational allowance and educational travel, official residence

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expenses, compensatory time off, representation allowance, official residence expenses, home service transfer allowance, and cost-of-living allowance (COLA) paid to civilian employees stationed in foreign areas (as defined in 5 U.S.C. § 5921(6)). These allowances are excluded from an employee's gross income under section 912(1)(C) of the Internal Revenue Code. In addition, these allowances are not subject to the withholding of social security and Medicare taxes. See Anderson v. United States, 929 F.2d 648 (Fed. Cir. 1991).

b) Nonforeign COLAs paid to employees stationed in the following areas (see I.R.C. § 912(2)):

City of Anchorage, Alaska, and 50 miles by road  
City of Fairbanks, Alaska, and 50 miles by road  
City of Juneau, Alaska, and 50 miles by road  
The rest of the State of Alaska  
Hawaii County, Hawaii  
Honolulu City and County, Hawaii  
Kalawao and Maui Counties, Hawaii  
Kauai County, Hawaii  
Commonwealth of Puerto Rico  
St. Croix, Virgin Islands  
St. John and St. Thomas, Virgin Islands  
Territory of Guam

c) For foreign moves (a move in connection with commencement of work at a new principal place of work located outside the United States and its possessions), the reasonable expenses of moving household goods and personal effects to and from storage, and of storing such goods and effects for part or all of the period during which the new place of work continues to be the employee's principal place of work. See Treas. Reg. § 1.217-2(h)(2).

d) Allowances that are comparable to those listed in subparagraph (a), above, which are paid to civilian employees stationed in Panama. See Tax Reform Act of 1986, Pub. L. No. 99-514, § 1232(b), 100 Stat. 2085, 2564. This exclusion does not apply to the overseas tropical differential. See Rev. Rul. 89-131, 1989-2 C.B. 133.

e) Direct charges paid to a relocation services company when an employee either cancels his request to use the relocation services contract after certain expenses are incurred by the relocation company, or the employee rejects the relocation services company's offer.

For purposes of deducting allowable moving expenses, the phrase "immediate family" means an individual whose principal place of abode is both the former residence and the new residence, and who is a member of the taxpayer's household. A taxpayer may deduct the allowable moving expenses incurred for individuals that reside with the taxpayer and who are members of the taxpayer's household. The law does not restrict the moving expense deduction to a taxpayer's spouse and children, as may be implied by the use of the phrase "immediate family."

Effective January 1, 1994, the wage base limit for Medicare tax has been eliminated. All 1994 taxable wages are subject to Medicare tax. As a reminder, we notified you on January 12, 1994, that the flat rate for withholding Federal income taxes increased to 28 percent (previously the rate was 20 percent) effective January 1, 1994.

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## FACTSHEET

ISSUE: Effect on Federal agencies and employees of the Omnibus Budget Reconciliation Act of 1993

This factsheet provides information regarding the effect of the Omnibus Budget Reconciliation Act of 1993 (OBRA) (Pub. L. 103-66, August 10, 1993) on the Relocation Income Tax (RIT) allowance, withholding, W-2 reporting requirements, and Federal Insurance Contributions Act (FICA) contributions.

Section 13213 of OBRA modified Internal Revenue Code (IRC) § 217, contained in title 26 of the United States Code, which allows taxpayers to deduct certain moving expenses. Previously, IRC § 217 allowed an employee to deduct up to \$3,000 of real estate transaction expenses, househunting travel expenses, and temporary quarters expenses; the deduction for househunting travel expenses and temporary quarters subsistence expenses could not exceed \$1,500. However, OBRA eliminated these deductions, as well as the deduction for meal expenses while performing en route travel, effective January 1, 1994. OBRA retained, however, the full deduction for transportation of household goods, 30 consecutive days of temporary storage, and en route lodging and transportation (but not meals) of the employee and the immediate family.

The RIT allowance is based on covered taxable reimbursements. FTR § 302-11.5(d) defines covered taxable reimbursements as "{c}overed moving expense reimbursements minus the tax deductions allowable under the IRC and IRS regulations for moving expenses." Since househunting travel expenses, temporary quarters subsistence expenses, real estate expenses, and en route meals no longer are deductible, the full reimbursement for these expenses will be covered taxable reimbursements for year 1 payments made on or after January 1, 1994.

IRC § 3402 requires employers to withhold Federal income taxes on wages. IRC § 3401(a) defines wages as "all remuneration ... for services performed by an employee for his employer" except as provided in that subsection. IRC § 3401(a)(15) specifically provides an exception for remuneration "to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217". Therefore, agencies are not required to withhold on reimbursements for transportation of household goods, 30 consecutive days of temporary storage, or en route lodging and transportation (but not meals) of the employee and the immediate family. Agencies should withhold on all other relocation payments, except payments made under a third party home purchase program.

IRC § 3102 required the collection of FICA contributions made by an employer on wages. IRC § 3121(a) defines wages as "all remuneration for employment" except as provided in that subsection. IRC § 3121(a)(11) provides an exception for "remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217". Therefore, agencies are not required to collect FICA contributions for transportation of household goods, 30 consecutive days of temporary storage, or en route lodging and transportation (but not meals) of the employee and the immediate family. Agencies should collect FICA contributions on all other relocation payments, except payments made under a third party home purchase program.

IRC § 6051 requires employers to report income to the IRS and employee. IRC § 6051 specifically requires employers to report "the total amount of wages as defined in section 3401(a)" (the withholding provisions) and "the total amount of wages as defined in section 3121(a)" (the FICA provisions). The IRS's reporting form is the Form W-2.

OBRA also modified the qualifications for moving expense deductions by raising the mileage test from 35 miles to 50 miles. An employee's new workplace must be 50 miles farther from the old residence than his/her old workplace was from the old residence. If this test is not met, the employee is not entitled to any moving expense deductions, and an agency must report wages, withhold income taxes and collect FICA contributions.

Finally, OBRA allows an employee to exclude reimbursements for deductible moving expenses from gross income. This gives employees the same treatment that they had prior to the Tax Reform Act of 1986. This will eliminate the problem that arose with non-itemizers under the '86 Act, and ensure that the RIT allowance more accurately reflects the change in an employee's income tax liability as a result of the employee's transfer. An employee loses benefit of the exclusion, however, if the employee actually deducts the payment in a previous tax year. Further, agencies will have to report the income, withhold income taxes, and collect FICA contributions on such payments if the agency has actual knowledge that the employee has deducted the reimbursed moving expenses in a previous tax year.

Agencies, therefore, should take necessary steps to ensure that relocation travel reimbursements are made in the same tax year in which expenses are incurred. This is especially important at the end of a calendar year, and there are several methods of accomplishing this objective. Agencies may avoid end-of-year

transfers, and for those that do occur, agencies should expedite the processing of end-of-year claims for en route transportation and shipment and temporary storage of household goods. Another alternative is for the agency to make direct payment to a third party for relocation services provided to the employee. This creates a constructive payment to the employee at the time when the service is provided to the employee. For example, an agency could use a Government Bill of Lading (GBL) or a third party household goods service company to transport and store an employee's household goods. For en route transportation, an agency could use a centrally billed account or a U.S. Government Transportation Request (GTR). In these situations, the employee is treated as having received reimbursement when the service is provided which will automatically match the reimbursement to the expense. Finally, we strongly recommend that employees be advised of the consequences of the timing of reimbursement claims on their tax liability.