

Ohio Auditor of State Mary Taylor's

Best Practices

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Accountability For Public Money



Mary Taylor, CPA
Ohio Auditor of State



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Ohio Auditor of State



Dear Colleague,

Over the years, the Auditor's office has produced Best Practices as a well respected resource for Ohio government entities. As Ohio's 31st Auditor of State, I am proud to continue this tradition of excellence and I hope that this issue and future issues will help you better manage and protect the tax dollars entrusted to your organization.

This issue of Best Practices focuses on cash, which is the riskiest form of public money. Unlike a check or credit card payment, cash cannot be traced back to its source. As demonstrated repeatedly over the years, any instance of mishandling public money can be very damaging to the reputation and credibility of public officials. This Best Practices is intended to provide you with recommendations on how to properly handle, secure, and process cash.

We also examine the role of the Auditor of State in holding fiscal officers accountable for their work in this issue. Accordingly, we explain the types of audit opinions and comments clients may receive as part of their regular financial audit. Finally, the "Tips Page" includes guidance on accountable and nonaccountable plans. These plans are used when reimbursing employees for business expenses and help determine whether the reimbursements are taxable.

Please use this issue of Best Practices as a tool for bettering your operations. Write notes in the margins. Underline important facts. Highlight information that you have questions about and contact us for further explanation. This publication is for your benefit.

Thank you for taking the time to learn more about making every tax dollar count. I am looking forward to sharing more valuable information with you in future editions of Best Practices.

Sincerely,

A handwritten signature in cursive script that reads "Mary Taylor".

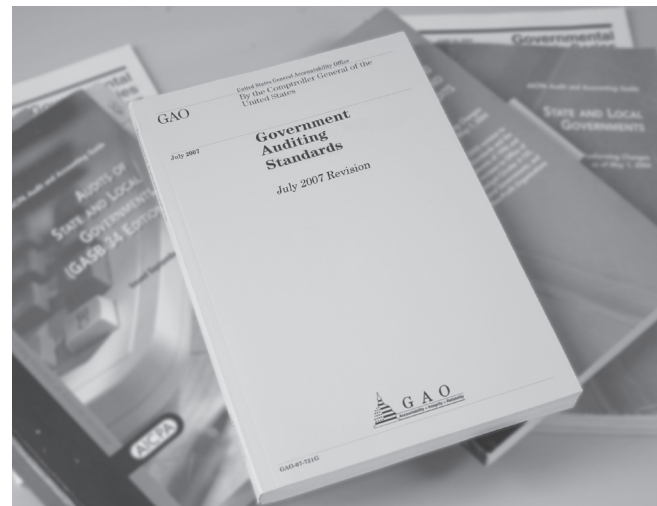
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BOLSTERING ACCOUNTABILITY THROUGH AUDITING

When conducting audits of government entities, auditors follow Generally Accepted Government Auditing Standards (GAGAS), more commonly referred to as “Yellow Book” standards. Promulgated under the leadership of the Comptroller General of the United States, who heads the Government Accountability Office (GAO), these standards were created with the express purpose of helping to provide accountability and assisting public officials and employees in carrying out their responsibilities.

Yellow Book standards are built on the concept of accountability and how auditing bolsters government accountability. According to the Yellow Book, public officials who are entrusted with public resources must apply them efficiently, economically and effectively to achieve the purposes for which the resources are provided. Further, they should establish and maintain effective controls to ensure that appropriate goals and objectives are met, resources are safeguarded and laws and regulations are followed.

These public officials are accountable both to the public and to other levels and branches of government for the resources they receive. To demonstrate their accountability, public officials are expected to provide reports (e.g., comprehensive annual financial reports or CAFRs) to the public and other governmental officials to show how these resources are being used. According to the Yellow Book, auditing lends credibility to the information included in these reports as they are designed to objectively acquire and evaluate the reports’ supporting evidence. Therefore, audits play a crucial role in public control and accountability.



Below is a brief description of the two main types of audits and how they bolster accountability in government:

- Financial statement audits provide reasonable assurance about whether the financial statements of an audited entity present fairly the financial position, results of operations and cash flows in conformity with generally accepted accounting principles (GAAP).

Financial audits contribute to providing accountability because they provide independent reports on whether an entity's financial information is presented fairly, whether the auditor detected any significant deficiencies in the design or operation of internal control and whether the entity complies with laws and regulations that materially affect the determination of financial statement amounts.

- Performance audits are systematic and objective assessments of the performance of an organization, program, function or activity to develop findings, conclusions and recommendations for improvement. Performance audits generally consider whether an agency is using its resources efficiently and effectively and whether an agency is accomplishing its goals with minimum resources and with the fewest negative consequences.

PERFORMANCE AUDITS

- Performance audits contribute to providing accountability because they offer an independent assessment of the performance of a government organization, program, activity or function. They provide information to improve public accountability and facilitate decision-making by parties who have the responsibility to oversee or initiate corrective action.

Due to the critical role audits play in ensuring governments are held accountable for the resources they are provided, it is imperative that the audit reports are understood by clients as well as by taxpayers. Accordingly, below is an explanation of the financial statement audit, which is by far the most common type of audit conducted by the Auditor of State (AOS). Because the AOS is statutorily required to audit financial statements for nearly 4,700 governmental entities here in Ohio and because they are comparatively more difficult to understand than a performance audit, the following explanation focuses solely on the financial statement audit. For more information on performance audits and other audit services provided by the AOS, visit www.auditor.state.oh.us.

FINANCIAL STATEMENT AUDIT PACKAGE

An entity's regular financial audit is required to occur once every two fiscal years (Ohio Rev. Code §117.11). However, an entity may request that the AOS conduct an annual audit, or the entity may be required to undergo an annual audit per the Single Audit Act of 1984. A single audit is conducted if the entity expended more than \$500,000 in federal funding in a given year.

Audit Opinions

There are three types of opinions that an auditor may issue on an entity's financial statements: **unqualified, qualified or adverse.**

- An **unqualified opinion** means the auditor believes the financial statements present fairly, in all material respects, an entity's financial position, results of operations and cash flows in accordance with GAAP or other acceptable accounting basis. This opinion does not indicate the financial health of an entity; only that the amounts, footnotes and presentation formats conform with GAAP or other acceptable accounting basis and are not materially misleading to readers.
- A **qualified opinion** means the auditor believes there is a material departure from GAAP or other acceptable accounting basis. However, while the departure may significantly affect one or more accounts, disclosures or presentations, it is not severe enough to render the financial statement presentation, taken as a whole, misleading.
- An **adverse opinion** means the auditor believes the effects of departures from GAAP or other acceptable accounting basis are of such magnitude that readers cannot rely on the amounts, footnotes, or presentations in the financial statement presentation.

In certain circumstances an auditor may choose to disclaim an opinion on the financial statements. This means that the auditor has insufficient evidence (e.g., missing records or irreconcilable accounts) to support an opinion on the amounts and footnotes in the financial statements, taken as a whole.

Report on Compliance and Internal Control

In addition to the audit opinion, the auditor also issues a Report of Independent Accountants on Compliance and on Internal Control Required by Government Auditing Standards. This reports instances of non-compliance with certain provisions of laws, regulations, contracts and grants which are considered direct and material to the financial statements. The auditor may issue the following findings in this report:

Compliance

- **Finding for Recovery:** A determination that public money has been illegally expended, public money has been collected but not been accounted for, public money is due but has not been collected or public property has been converted or misappropriated.
- **Material Non-compliance Citation:** A determination that the entity's non-compliance with a particular law, regulation, etc. is significant to amounts the financial statements report. Examples include violations of:
 - Budgetary requirements;
 - Restrictions on resource use and contracting/ competitive bidding requirements;
 - Debt requirements, including covenants lenders impose;
 - Financial reporting requirements; and
 - Restrictions on investments and collateralization requirements.
- **Findings for Adjustment:** If an entity records a receipt or spends money from a fund without the authority to spend it, an adjustment to the financial statements may be necessary. The proper use of fund accounting is critical to helping assure that governments comply with restrictions on resources.

Note: In May 2006, a new statement on auditing standards (SAS 112) was issued by the American Institute of Certified Public Accountants (AICPA) that impacts the way auditors report internal control deficiencies. Clients may notice that their audits of financial statements covering December 31, 2006, (and subsequent periods) are classifying internal control deficiencies differently and more severely than did previous reports. A control deficiency exists when the design or operation of a



control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis.

SAS 112 lowers the threshold for reporting control deficiencies identified during the audit. Previously auditors could communicate certain deficiencies verbally with the audit client. SAS 112 requires auditors to communicate, in writing, those control deficiencies found during the audit that are considered significant deficiencies and/or material weaknesses as follows:

Internal Control

- **Material Weakness:** A significant deficiency or combination of significant deficiencies (see below) that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected.
- **Significant Deficiency:** A control deficiency or a combination of control deficiencies that adversely affects the entity's ability to initiate, authorize, record, process or report financial data reliably in accordance with the applicable accounting basis such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected.

In accordance with Government Auditing Standards, auditors must design their audit to reasonably assure detecting material misstatements resulting from violations of provisions of laws, regulations, contracts or grant agreements that directly and materially affect the determination of financial statement amounts. Auditing standards require each public office to identify the requirements with which the office and its officials must comply and for implementing systems designed to achieve that compliance.

Recognizing that this is a burdensome requirement, the AOS has developed the Ohio Compliance Supplement which contains certain laws and regulations that are of considerable public interest or are of the type auditors generally consider direct and material. To access the latest version of the Ohio Compliance Supplement visit www.auditor.state.oh.us.

However, while the Ohio Compliance Supplement addresses many Revised Code and other requirements applicable to many local governments, there are other material, entity-specific requirements the supplement cannot address. For example, local governments are still responsible for identifying and for complying with material local charter requirements, debt covenants, grant and other contractual requirements materially affecting the determination of financial statement amounts.

Management Letter

The auditor may also provide the entity with a separate letter denoting certain immaterial instances of noncompliance and other recommended practices. Although these items are certainly important, they are not significant enough to impact the auditor's ability to provide an opinion on the entity's financial statements. This "Management Letter" is not a part of the formal audit package. Instead, it is provided separately to the audited entity.

Single Audit Report

The federal government mandates that state and local governments expending more than \$500,000 of total federal awards in a fiscal year meet the audit requirements of Office of Management and Budget Circular A-133. Before 1984, federal audit requirements often resulted in many individual program audits of the same government. The 1984 Single Audit Act largely replaced these individual program audits with a "single audit" of federal awards.

OMB Circular A-133 (i.e., Single Audit Report) provides a formal opinion on the entity's compliance and internal controls related to "major" (i.e., larger or riskier) federal programs. These findings may lead to federal questioned costs, which are federal program expenditures which do not comply with certain restrictions placed on the use of those funds or another program requirement (e.g., matching requirement). Once a finding is issued, the awarding agency may require the local government (i.e., grantee) to reimburse the federal government for these questioned costs.

As part of the audit package, the auditor details the findings (both GAGAS and Single Audit) in a sub-section entitled, "Schedule of Findings." With the exception of the audit opinion, this subsection contains nearly all the requisite information regarding the entire audit package.

PROTECTING THE PUBLIC PURSE

Public Money and Findings for Recovery

According to Ohio Rev. Code § 117.01 (C), “public money” means any money received, collected by or due a public official under color of office, as well as any money collected by any individual on behalf of a public office or as a purported representative or agent of the public office. Whether in the form of cash, electronic funds transfer or a check, public money includes everything from large tax revenue receipts to individual customer utility payments. It is further apparent that these monies are considered public when collected by a public official, his or her designee or an agency’s representative during the course of his or her duties.

Findings for recovery (FFRs) are generally considered one of the more severe report comments an entity may receive as part of the audit report. Other report comments can be as significant because they may point out an entity’s internal control deficiencies or identify where the entity did not comply with a particular law or regulation that could lead to a FFR being issued. These FFRs are usually considered the most direct way that the AOS can protect the public purse.

Ohio Rev. Code § 117.28, sets forth those situations when the AOS may issue a FFR, which are as follows:

- Public money has been illegally expended;
- Public money has been collected and has not been accounted for;
- Public money due has not been collected; or
- Public property has been converted or misappropriated.

In State ex rel. Maher v. Baker (1913), the Supreme Court referred to the FFR Statute, stating:

The purpose, phrasing and power of the statute all happily combine to protect the people’s purse and property and to protect and promote official honesty.

It is clear that as early as 1913 the Ohio Supreme Court recognized the importance of protecting public money. The FFR Statute is not only designed to protect public money but it promotes honest, ethical conduct on the part of our public servants. Public officials may be less likely to steal from the public purse knowing that they will be subject to a FFR in their upcoming audit.

Ohio Rev. Code § 117.28 outlines the process by which monies identified in a FFR may be recovered as follows:

- The Auditor of State's office files the audit report with the appropriate legal counsel of the public office. (If no officer is required by law to act as legal counsel, a copy is filed with the prosecuting attorney of the county within which the fiscal officer of the public office is located.)
- The prosecuting attorney may institute a civil action within 120 days in the name of the public office to which the public money is due and prosecute the action to final determination.
- The Auditor of State's office notifies the Attorney General in writing of every audit report that contains a FFR.
- The prosecuting attorney notifies the Attorney General as to whether civil action will be instituted within 120 days of receiving the audit report. (If the prosecutor decides not to prosecute, the prosecutor must notify the Attorney General in writing of the reason why legal action was not instituted.)
- The Attorney General may bring civil action in any case where the prosecuting attorney fails to do so, within 120 days of the report being filed with the public office.
- Prosecuting attorney shall institute criminal proceedings within 120 days if audit report sets forth any malfeasance or gross neglect of duty on the part of the public official for which a criminal penalty is provided.

Ohio law (Ohio Rev. Code § 9.24) further prohibits any state agency or political subdivision from awarding a contract for goods, services or construction to any person against whom a FFR has been issued by the Auditor of State's office, if that finding is unresolved (i.e. individuals against whom a FFR is issued have not reimbursed the public office for the FFR amount).

While there are additional criteria, the statute limits this prohibition to contracts which are paid in whole or in part with state funds and which exceed \$25,000. The AOS has established a database pursuant to Ohio Rev. Code § 9.24 in order to list all persons who have unresolved FFRs, dating back to January 1, 2001. Before entering into a public contract, a state agency or political subdivision is required to verify that the person does not appear in the FFR database which can be accessed at www.auditor.state.oh.us.

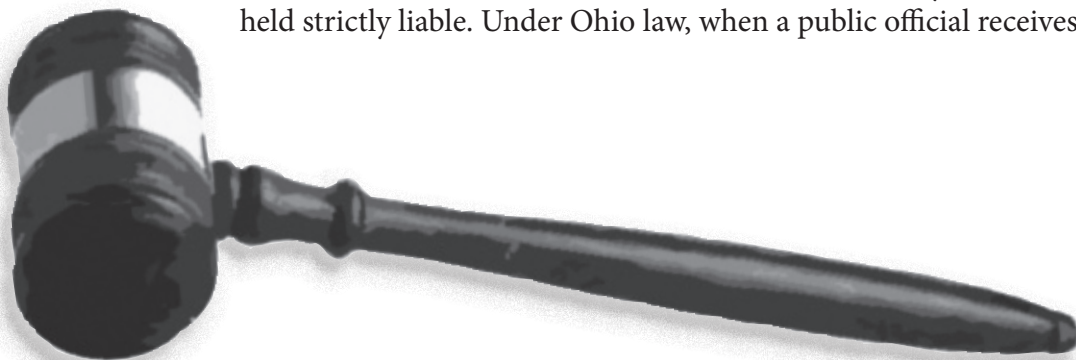
LIABILITY OF A PUBLIC OFFICER

In State ex rel Smith v. Maharry (1918), the Ohio Supreme Court referred to the FFR statute once again and stated:

What is the paramount purpose of these statutes? It is to protect and safeguard public property and public moneys. Finally, we have come to regard all public property and all public moneys as a public trust. The public officers in temporary custody of such public trusts are the trustees for the public and all persons undertaking to deal with and participate in such public trust do so at their peril; that is, the rights of the public, as beneficiaries, are paramount to those of any private person or corporation.

As the Supreme Court has affirmed, a great amount of responsibility is placed with those who are entrusted with public money. It is also clear that the rights of the public are meant to trump those of the individual who has temporary custody of the public money. This is referred to as the Strict Liability Standard, Ohio Rev. Code § 9.39, and it states that all public officials are liable for all public money received or collected by them or by their subordinates under color of office. All money received or collected by a public official under color of office and not otherwise paid out according to law shall be paid into the treasury of the public office with which he is connected to the credit of a trust fund and shall be retained there until claimed by its lawful owner. If not claimed within a period of five years, the money shall revert to the general fund of the public office.

It is clear that a supervisory officer is held to a high level of accountability for public money over which he or she exercises direction or control. Generally, this officer is held strictly liable. Under Ohio law, when a public official receives



public funds under color of office, the public officer or employee will be held personally liable for the missing funds, even if the loss occurred while the funds were in the custody of another individual.

According to, [*Seward v. National Surety Corp.*, 120 Ohio St. 47 (1929); 1980 Op. Atty Gen. No. 80-074; *State, ex. Rel. Village of Linndale v. Masten*, 18 Ohio St. 3d 228 (1985)], liability extends to everything short of an act of God or an act of a public enemy. Even though an officer is blameless, he or she may not blame a subordinate who dealt directly with the public money so as to avoid responsibility. See 1980 Op. Atty Gen. No. 80-074. However, in certain situations, an officer may be relieved of liability by appropriate legislative action or pursuant to Ohio Rev. Code § 131.18. See 1980 Op. Atty Gen. No. 80-074. For example, an officer may not be liable in cases where the loss was the result of a fire, robbery, burglary, flood or the inability of a bank to refund public money lawfully. Additionally, as long as the loss occurred while an employee was acting in good faith and not manifestly outside the scope of employment of official responsibilities, Ohio Rev. Code § 2744.07 generally requires the political subdivision to provide for the defense of an employee in civil actions where loss was caused in connection to employee's official duties. Historically, the Auditor of State has taken the position that as long as the official has taken steps to implement internal controls to safeguard public funds and fulfill his or her employee monitoring responsibilities, the supervisor/public official is not normally named as strictly liable in the FFR.



In addition to the liability of any officer or employee for which he may be sued, the surety on any official bond given by an officer or employee is liable on his bond up to the amount named therein. The surety may be sued in the same action in which the principal is sued, and applies with equal force to the surety as to the principal (Ohio Rev. Code § 117.29).

BEST PRACTICES IN CASH HANDLING

Almost all local governments have operations that involve over-the-counter collections from the general public. Collections may be in the form of personal checks, debit card transactions, credit card transactions, money orders or cash. These collections may be for a number of things including:

- Tax Payments;
- Utility payments;
- Fees;
- Court Collections;
- Permits; and
- Other service charges.

Documentation for each transaction may be generated manually by the use of a receipt form or through the use of an electronic device or computer that will provide detailed and/or summary information. At the end of the day, this documentation is reconciled to the total of the cash, checks and other payment forms in the cash drawer less the starting amount in coins and currency.

Over-the-counter collections require a cashier to manually make change for a customer. This process demands accuracy by the cashier and such is subject to human error. Invariably, overages and shortages will occur.

Some local governments retain overages separately or as part of the starting cash drawer balance to cover future shortages. Some local governments require the cashier to immediately make up the shortage. This approach has some risk as it may increase employee turnover, or worse, it may become a motivating factor for the employee to take any overage to balance the account.



According to the Government Finance Officers Association (GFOA), proper controls over revenues are imperative in determining budget, forecasting, reconciliations, and general oversight over the various revenues collected. Proper controls over all receipts (including cash) must exist to ensure all funds are collected for services performed by the government. Accordingly, governments should establish a revenue policy that incorporates the following control procedures for over-the-counter cash collections:

General Controls

- Use automated systems (e.g., computer or cash register) where practical to increase cash processing efficiency and to provide more detailed support for reconciliations.
- Establish a starting cash drawer amount and other funds held in reserve to ensure sufficient currency to make change.
- Require daily verification of the starting balance by the responsible cashier to assign accountability.
- Require collections for each individual cash drawer be reconciled daily, documented, signed off by the responsible cashier and deposited in a timely manner.
- Segregate duties between collection, recordation, reconciliation and deposit processes.
- Overages should be recorded as other revenue and shortages should be recorded as other expenditures.
- Disallow the acceptance of overpayments when the intention is to give a cash refund to the customer.
- Management should encourage cashiers to report overages and shortages.
- Management should summarize cashiers' cumulative overages and shortages and use this information in evaluating employee performance.

Security Controls

- Establish strict physical access controls to the cash drawer.
- Assign responsibility to the cashier for securing the cash drawer.
- Require periodic draw-downs by management or the cashier during days of large collections to ensure that the amount of cash in each drawer does not become excessive.



Management Controls

- Require management to verify the daily receipt and reconciliation process.
- Require management to monitor and track daily overages and shortages for each cashier.
- Require management to use trend information regarding overages and shortages as part of the employee's evaluation and performance review.
- Specify the actions to be taken by management based on the dollar amount and/or frequency of overages and shortages.

Monitoring Controls

- Monitor deposits to ensure cash is actually being deposited.
- Perform timely bank account reconciliations and investigate any discrepancies between your internal records and the bank's records.
- Conduct surprise cash counts to ensure the accuracy of collections.
- Perform trend analysis of cash deposits and activity levels, which may identify anomalies or potential fraud.
- Monitor register voids and use of "no sale" key – investigate excessive use.

When the amounts collected are significant, the Auditor of State's office will review, as part of the audit process, a government's control policies and procedures for over-the-counter cash collections, including the corrective action that management takes to minimize the occurrence of overages and shortages. Please note that the Auditor of State's determination whether a FFR is warranted may be influenced by the failure to establish or adhere to adequate controls.

The Auditor of State's office recognizes that even the most honest employees make errors in recording cash. Therefore, the Auditor of State will not issue FFR for insignificant cash shortages a cashier reports to management as part of their reconciliation process, if the government's management monitors overages and shortages and suitably follows up on patterns of shortages. Conversely, we may report shortages as findings for recovery if a government's controls are not in place or are inadequate.

SAMPLE CASH-HANDLING POLICIES

Governments should develop policies that most appropriately suit their needs. As such, the number of controls and restrictions included in the policy is a determination of each respective government. While samples of cash-handling policies are widely available, the following policies contain varying levels of procedural controls that governments might find useful in developing or retooling their cash-handling policy.

City of San Luis Obispo, California

www.auditor.state.oh.us/publications/bestpractices/fall07sanluisobispocashmanagement.pdf

Of the cash-handling policies reviewed, the city of San Luis Obispo's policies and procedures on cash management are the most thorough and comprehensive. They are divided into the following sections: General Information, Public Service, Cash Handling, Daily Cashier Operations and Security and Loss and Prevention. They also provide extensive guidance on how to perform the duties of a cashier. Most notably, they stress the importance of customer service. For instance, the policy and procedures state, "There's no such thing as 'just' a city cashier. As far as most citizens are concerned, you are the city!"

Town of Windsor, California

www.auditor.state.oh.us/publications/bestpractices/fall07townofwindsorcashcontrolshandling.pdf

Windsor's cash controls and handling policy is concisely written yet includes a number of important controls designed to safeguard cash and other collections. The controls are designed to help ensure that the cash receipting process is performed uniformly among the town's various departments. The policy requires departments to maintain only the absolute minimum amount of collections on their premises to ensure safety and to maximize Windsor's return on investments.

Ashtabula County Joint Vocational School District, Ohio

www.auditor.state.oh.us/publications/bestpractices/fall07acjvscashpolicies.pdf

Ashtabula County Joint Vocational School District (JVSD) has established cash collection and deposit regulations that provide guidance and associated controls in each area and collection point where cash is normally receipted (e.g., Cafeteria Receipts, Principal's Office, Summer School Fees, etc.). Uniquely, the regulations include a copy of Ohio Rev. Code § 9.38, which is the applicable legal requirement governing the deposit of public money.

City of Solon, Ohio

www.auditor.state.oh.us/publications/bestpractices/fall07cityofsoloncashprocedures.pdf

The city of Solon has developed procedural guidance for its Tax Division and for other areas on the proper receipt and deposit of collections. Although the guidance is designed to meet the specific needs of the city, it contains many of the preferred controls and restrictions to ensure money is properly safeguarded.

THE TIPS PAGE

To reimburse employees for various business expenses (e.g., mileage, meals, hotel, etc.) incurred during the course of their official duties, governments must follow either an accountable plan or a non accountable plan. These plans determine whether the business expense is considered taxable or nontaxable by the Internal Revenue Service (IRS). Accordingly, the IRS has provided the following definitions for the two types of plans.

Accountable Plans

A plan under which an employee is reimbursed for expenses or receives an allowance to cover expenses is an accountable plan only if the following conditions are satisfied.

- There must be a business condition for the expenses;
 - The expense must be in connection with performance of services as an employee.
 - The reimbursement must be for an expense the employee could deduct on his/her tax return.
- The employee must either substantiate or be deemed to have substantiated the expenses;
 - Generally substantiation consists of receipts and/or cancelled checks and invoices that show the nature and amount of the expenditure.
 - Expenses deemed to have been substantiated are such things as using the mileage allowance rate (48.5 cents per mile) rather than actual expenses for operating a vehicle or use of a per diem rate for meals rather than requiring receipts.
- The employee must return to the employer amounts in excess of the substantiated (or deemed substantiated) expenses within a reasonable time;
 - There are 2 methods of determining a reasonable time

- Periodic Statement
 - A statement from the employer is given to the employee at least quarterly, setting forth the amounts paid under the plan in of the substantiated amount and requesting the employee either substantiate or return excess amounts within 120 days of the statement date.
- Fixed Date
 - Advance Payments – 30 days before the reasonably anticipated expenses are paid or incurred.
 - Substantiation – 60 days after expenses are paid or incurred.
 - Return of excess amounts – 120 days after expenses are paid or incurred.

Amounts paid under accountable plans are not income to the employee and are not shown on Form W-2.

Remember that all of the requirements must be met in order for it to be an accountable plan!

Nonaccountable Plan

A nonaccountable plan is a reimbursement plan or policy which does not meet all the requirements for an accountable plan.

Amounts paid under a nonaccountable plan are income to the employee and must be included in wages with appropriate tax withholdings.

An employer can have an accountable plan for some items, and a nonaccountable plan for others.

Questions regarding taxable fringe benefits or accountable and nonaccountable plans can be directed to bestpractices@auditor.state.oh.us or you may contact the following IRS representatives directly:

Amy Myers (419) 522-2259

Wendy Speelman (419) 526-2607

Trudee Billo (419) 522-2359



CONTACT US

If you have any questions or comments regarding this issue of Best Practices or if there are other areas you would like us to highlight in future issues, please let us know. Your opinions are very important to us.

Please share your thoughts with us by sending an email to:

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