

SANTA FE COUNTY

RESOLUTION NO. 2007-155

A RESOLUTION TO EXPAND THE EXISTING TAXABLE FRINGE BENEFITS POLICY

WHEREAS, on June 26, 2007, the Board of County Commissioners adopted Resolution 2007-100 which recognized the County's obligation to tax certain fringe benefits provided to employees.

WHEREAS, The Santa Fe County Finance Department is requesting approval to expand the policy & procedure established by Resolution 2007-100 regarding taxable fringe benefits for County employees.

WHEREAS, an expansion of the Taxable Fringe Benefits Policy is attached hereto and details the procedures necessary to implement regulations regarding the taxable fringe benefits of education assistance and group term life insurance.

WHEREAS, the Santa Fe County Finance Department requests that the attached policy take effect immediately upon adoption of this Resolution so that affected employees will have taxable fringe benefits included in their paychecks as of the adoption of this Resolution.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Santa Fe County hereby adopts this Resolution implementing the Expansion of the Taxable Fringe Benefits Policy attached hereto for immediate implementation.

APPROVED, ADOPTED AND PASSED this 25th day of September 2007.

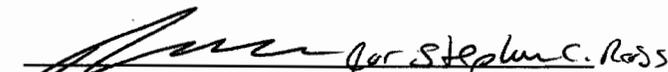
BOARD OF COUNTY COMMISSIONERS


Virginia Vigil, Chairman




Valerie Espinoza, County Clerk

Approved As To Form


Stephen C. Ross, County Attorney

SFC CLERK RECORDED 10/03/2007

Finance Department Approval

Teresa C. Martinez
Teresa C. Martinez, Finance Director

SFCC CLERK RECORDED 10/03/2007



COUNTY OF SANTA FE) BCC RESOLUTIONS
STATE OF NEW MEXICO) ss PAGES: 8

I Hereby Certify That This Instrument Was Filed for
Record On The 3RD Day Of October, A.D., 2007 at 10:23
And Was Duly Recorded as Instrument # 1501840
Of The Records Of Santa Fe County

Valerie Espinoza Witness My Hand And Seal Of Office
Deputy Valerie Espinoza
County Clerk, Santa Fe, NM

FINANCE DEPARTMENT
ALL DEPARTMENTS

PROCEDURE NO.: Resolution No: 2007 - COUNTY WIDE

TITLE: EXPANSION OF THE TAXABLE FRINGE BENEFITS POLICY TO INCLUDE
EDUCATION ASSISTANCE AND GROUP TERM LIFE INSURANCE

EFFECTIVE DATE: September 25, 2007 APPROVED BY: Teresa A. Martinez
Teresa Martinez, Finance Director

I. PURPOSE

To provide a policy regarding taxable fringe benefits which addresses education assistance and group term life insurance so as to bring the County into compliance with the following statutes and regulations:

- A. United States Code Title 26, Subtitle A, Chapter 1 – Internal Revenue Code, Normal Taxes and Surtaxes, Computing of Taxable Income.
- B. United States Code Title 26, Subtitle C, Chapter 24 – Internal Revenue Code, Employment Taxes, Collection of Income Tax at Source on Wages.
- C. 26 CFR § 1.274-5T – Substantiation Requirements.
- D. 26 CFR § 1.132-5 – Working Condition Fringe Benefits.
- E. 26 CFR § 1.132-6 – De minimis fringes.
- F. 26 CFR § 1.162-17 – Reporting and substantiation of certain business expenses of employees.
- G. 26 CFR § 1.162-5 – Expenses for education.
- H. 26 CFR § 1.61-21 – Taxation of fringe benefits.

II. SCOPE

This policy and procedures applies to all Santa Fe County elected officials and employees who receive fringe benefits that are or may be taxable under the Internal Revenue Code and any elected official or employee who may be responsible for budgeting, approving, tracking, reporting or accounting for taxable fringe benefits.

III. DEFINITIONS

For purposes of this policy the following definitions apply:

Code of Federal Regulations – the codification of general and permanent rules and regulations published by executive departments and agencies of the Federal government.

De minimis Fringe Benefit – a fringe benefit, the value of which is so small as to make accounting for it unreasonable or administratively impractical.

Fringe Benefit – a form of pay, in addition to wages, for the performance of services provided.

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Internal Revenue Code – the main body of Federal (domestic) tax law.

Internal Revenue Service – the agency of the Federal government responsible for administering and enforcing the Federal (domestic) tax law.

Recipient employee – an employee who receives a fringe benefit regardless of whether the benefit is taxable or non-taxable.

Taxable Fringe Benefits – any fringe benefit that is not specifically excluded from taxation by the Internal Revenue Code.

Taxable Fringe Benefits Employee – the employee in the Finance Department designated as the Taxable Fringe Benefits liaison to employees of the County.

Taxable Income – the portion of a taxable entity's (individual, corporation, etc.) income which is subject to taxation under Federal and/or State tax law.

Working Condition Fringe Benefit – any property or services provided by an employer to an employee in addition to her/his wages, to the extent that, if the employee paid for such property or services, such payment would be allowable as a deduction from her/his personal income tax under section 162 or 167 of the Internal Revenue Code.

IV. GENERAL

- A. Each person employed by the County of Santa Fe receives various fringe benefits as part of her/his overall compensation. In general, the fringe benefits that are currently provided by Santa Fe County to its employees are excluded from the employee's taxable income. However, there are some fringe benefits provided to certain Santa Fe County employees that may be considered taxable under the Internal Revenue Code.
- B. If a fringe benefit is determined to be taxable under the Internal Revenue Code then the value of that benefit must be added to the receiving employee's wages and thus, must be reported on the employee's annual W-2 form. Further, the benefit may be subject to Federal and State tax withholding and to Medicare and Social Security (FICA) withholding with a required FICA employer share paid by Santa Fe County.
- C. The County is responsible for documenting and accounting for taxable fringe benefits as well as reporting them to the Internal Revenue Service (IRS) and the Social Security Administration (SSA) in accordance with their requirements. The County must also pay its share of Medicare and Social Security taxes (FICA) on all taxable fringe benefits, thus the County's share must be contemplated in the budget of any Department/Division which has an employee or employees who receive a taxable fringe benefit.
- D. This policy does not supersede Resolution No. 2007-100 which was passed by the Board of County Commissioners on June 26, 2007. This policy is a supplement to Resolution 2007-100 and addresses the taxability of certain fringe benefits not specifically referenced in that Resolution. Further, the Internal Revenue Code and Internal Revenue Service rules are subject to change or modification. Santa Fe County may amend this policy in order to comply with the Internal Revenue Code or Internal Revenue Service rules and any changes made thereto. Any employee impacted by such amendments to this policy will receive prior notification of the change and its tax consequences.

V. POLICIES AND PROCEDURES

- A. The designated Taxable Fringe Benefits Employee of the Finance Department will be responsible for tracking, accounting for and reporting taxable fringe benefits and will act as a liaison to Departments/Divisions and employees of Santa Fe County regarding taxable fringe benefits.
- B. The Human Resources Department will designate an employee or employees to coordinate with the Taxable Fringe Benefits Employee of the Finance Department to provide needed fringe benefits information for reporting purposes and to ensure County compliance.
- C. Employee Education Programs and Benefits:
 1. Tuition assistance is offered to County employees within the limitation of the County budget. Tuition assistance is a taxable fringe benefit unless it meets the following IRS criteria to qualify the benefit as a “working condition fringe benefit”:
 - a. The course(s) must not be needed to meet the minimum educational requirements of the current job.
 - b. The course(s) cannot be part of a program of study to qualify the employee for a new trade or business.
 - c. The course(s) must be job-related, *and either*
 - i. maintain or improve jobs skills, *or*
 - ii. be required by the County or by law.
 2. The cost to the County to sponsor a degree program (e.g. College for Working Adults) is taxable to the recipient employee unless the course(s) meet the criteria outlined in Section V.C.1. to qualify the course(s) as a working condition fringe benefit.
 3. The cost to the County to send an employee(s) to occasional or periodic training workshops, conferences or seminars is taxable to the recipient employee(s) unless the training meets the criteria outlined in Section V.C.1. to qualify it as a working condition fringe benefit.
 4. The cost to the County to provide “in-house” trainings is taxable to the recipient employee(s) unless the training meets the criteria outlined in Section V.C.1. to qualify it as a working condition fringe benefit.
 5. The following expenses associated with any educational benefit or any educational program meeting the criteria to be considered a working condition fringe benefit outlined in Section V.C.1. above will qualify for exclusion from the recipient employee’s income:
 - a. Tuition.
 - b. Books.
 - c. Supplies.
 - d. Equipment.
 - e. Training related travel expenses incurred per established County policies.

6. All expenditures associated with any employee education program or other educational benefit provided by the County must be substantiated and any unsubstantiated amount must be returned to the County within 30 days.
 7. The cost of any educational program or educational benefit as referenced in Section V.C.1.-3. above that does not qualify as a working condition fringe benefit shall be included in the recipient employee's income each pay period on a pro rata basis throughout the duration of the course(s) subject to required Federal and State tax withholding as well as Medicare and Social Security (FICA) withholding with a required FICA employer's share paid by Santa Fe County.
 - a. The Human Resources Department will notify the Taxable Fringe Benefits employee of any employee who has received or is receiving an educational benefit that does not qualify as a working condition fringe benefit.
 - b. The Taxable Fringe Benefits Employee will determine the pro rata amount to be included in the recipient employee's income each pay period for the duration of the course(s).
 - c. The Taxable Fringe Benefits Employee will notify the recipient employee of the amount to be included in her/his income for the educational program or benefit.
- D. Group Term Life Insurance:
1. Group term life insurance is offered to eligible County employees for a nominal premium, payment of which is shared by the employee and the County. For income tax purposes the "cost" of the coverage is calculated using the premium rate table provided by the IRS (see attachment A for the 2007 premium rate table). The IRS determined cost of the group term life insurance is excludable from an employee's income if the policy and plan meet the criteria listed below:
 - a. The face amount of the policy does not exceed \$50,000.
 - b. The plan does not discriminate, as defined by IRS regulation, in favor of higher paid employees.
 2. Group term life insurance for the spouse/domestic partner or dependant(s) of an eligible County employee is offered for a nominal premium, payment of which is shared by the employee and the County. For income tax purposes the "cost" of the spouse/domestic partner and/or dependent coverage is calculated using the premium rate table provided by the IRS (see attachment A for the 2007 premium rate table). The IRS determined cost, less any after-tax amount paid by the employee, is includable in the employee's income subject to Medicare and Social Security (FICA) withholding with a required FICA employer's share paid by Santa Fe County.
 3. Supplemental group term life (insurance in excess of \$50,000 face value) can be purchased by the employee at her/his own expense. For income tax purposes the "cost" of the supplemental group term life insurance is calculated using the premium rate table provided by the IRS (see attachment A for the 2007 premium rate table). The IRS determined "cost," less any amount paid by the employee, is includable in the employee's income subject to Medicare and Social Security (FICA) withholding with a required FICA employer's share paid by Santa Fe County.

4. The includable cost of any group term life insurance policy described in Section V.D.1.-3. above will be included in the employee's income on a per pay period basis.
 - a. The Human Resources Department will provide the Taxable Fringe Benefits Employee with premium information each year when the rates become available.
 - b. The Human Resources Department will provide the Taxable Fringe Benefits Employee with information on any employee who has selected to purchase group term life that is includable in the employee's income.
 - c. The Taxable Fringe Benefits Employee will calculate the includable portion of the cost of group term life insurance. The includable amount may change periodically as a result of a premium change, a change in the premium rate table provided by the IRS, or due to changes in IRS regulations governing the taxability of group term life insurance.
 - d. The Taxable Fringe Benefits Employee will notify the employee of the includable amount initially and each time a change in the amount occurs.
- E. Each Department/Division director or elected official must ensure that adequate funding exists in her/his budget to fund the required FICA employer's share to be paid as a result of providing any taxable fringe benefit to employees.
- F. The Finance Department will conduct trainings on this policy as necessary.

Table 2-2. Cost Per \$1,000 of Protection For 1 Month

Age	Cost
Under 25	\$.05
25 through 29	.06
30 through 34	.08
35 through 39	.09
40 through 44	.10
45 through 49	.15
50 through 54	.23
55 through 59	.43
60 through 64	.66
65 through 69	1.27
70 and older	2.06

You figure the total cost to include in the employee's wages by multiplying the monthly cost by the number of full months' coverage at that cost.

Example. Tom's employer provides him with group-term life insurance coverage of \$200,000. Tom is 45 years old, is not a key employee, and pays \$100 per year toward the cost of the insurance. Tom's employer must include \$170 in his wages. The \$200,000 of insurance coverage is reduced by \$50,000. The total cost of \$150,000 of coverage is \$270 (\$15 x 150 x 12), and is reduced by the \$100 Tom pays for the insurance. The employer includes \$170 in boxes 1, 3, and 5 of Tom's Form W-2. The employer also enters \$170 in box 12 with code C.

Coverage for dependents. Group-term life insurance coverage paid by the employer for the spouse or dependents of an employee may be excludable from income as a de minimis fringe benefit if the face amount is not more than \$2,000. The part of this coverage that the employee paid on an after-tax basis is also excludable from income. For this purpose, the cost is figured using the monthly cost table above.

Former employees. For group-term life insurance over \$50,000 provided to former employees (including retirees), the former employees must pay the employee's share of social security and Medicare taxes with their federal income tax returns. You are not required to collect those taxes. Use the table above to determine the amount of social security and Medicare taxes owed by the former employee for coverage provided after separation from service. Report those uncollected amounts separately in box 12 on Form W-2 using codes "M" and "N." See the Instructions for Forms W-2 and W-3.

Exception for key employees. Generally, if your group-term life insurance plan favors key employees as to participation or benefits, you must include the entire cost of the insurance in your key employees' wages. (This exception generally does not apply to church plans.) When figuring social security and Medicare taxes, you must also include the entire cost in the employees' wages. Include the cost in boxes 1, 3, and 5 of Form W-2. However, you do not have to withhold federal income tax or pay FUTA tax on the cost of any group-term life insurance you provide to an employee.

For this purpose, the cost of the insurance is the greater of the following amounts.

- The premiums you pay for the employee's insurance. See Regulations section 1.79-4T (Q-6) for more information.
- The cost you figure using the Table 2-2.

For this exclusion, a key employee during 2007 is an employee or former employee who is one of the following individuals. See section 416(i) of the Internal Revenue Code for more information.

1. An officer having annual pay of more than \$145,000.
2. An individual who for 2007 was either of the following.
 - a. A 5% owner of your business.
 - b. A 1% owner of your business whose annual pay was more than \$150,000.

A former employee who was a key employee upon retirement or separation from service is also a key employee.

Your plan does not favor key employees as to participation if at least one of the following is true.

- It benefits at least 70% of your employees.
- At least 85% of the participating employees are not key employees.
- It benefits employees who qualify under a set of rules you set up that do not favor key employees.

Your plan meets this participation test if it is part of a cafeteria plan (discussed in section 1) and it meets the participation test for those plans.

When applying this test, do not consider employees who:

- Have not completed 3 years of service,
- Are part-time or seasonal,
- Are nonresident aliens who receive no U.S. source earned income from you, or
- Are not included in the plan but are in a unit of employees covered by a collective bargaining agreement, if the benefits provided under the plan were the subject of good-faith bargaining between you and employee representatives.

Your plan does not favor key employees as to benefits if all benefits available to participating key employees are also available to all other participating employees. Your plan does not favor key employees just because the amount of insurance you provide to your employees is uniformly related to their pay.

S corporation shareholders. Because you cannot treat a 2% shareholder of an S corporation as an employee for this exclusion, you must include the cost of all group-term life insurance coverage you provide the 2% shareholder in his or her wages. When figuring social security and Medicare taxes, you must also include the