Chapter 41.
Taxable Compensation
PPM No. 73

§ 4101. Purpose and Scope

A. The purpose of this memorandum is to establish a policy for the reporting of all taxable compensation provided to employees, withholding of applicable amounts to meet the employee's tax liability associated with the taxable compensation, to provide guidelines for establishing a value for taxable compensation, and to provide guidelines for inclusion or exclusion of fringe benefits as taxable compensation.

B. All departments, agencies, offices, institutions, boards, and commissions within the Executive branch of state government shall comply with this memorandum.

§ 4103. Definitions

For purposes of this memorandum the following definitions shall apply.

Compensation – includes wages, salaries, bonuses, tips, commissions, fringe benefits, termination or severance pay, commission per diem and any and all similar items.

Fair Market Value (FMV) – that amount of compensation that would be paid between unrelated third parties to obtain a service or benefit.

Fringe Benefits – meals, lodging, personal use of a state vehicle; cash allowances for meals, housing and/or vehicles; moving expenses; parking; etc.

In-kind – non-cash compensation; may include meals, lodging, vehicle personal use, moving expenses, etc.

Reimbursed Expenses – items of expenditure incurred by an employee in the performance of his job, and paid back by the state.

Tax Liability – includes federal and state tax withholding, FICA and Medicaid withholding and any penalty or interest payment due as a result of noncompliance

Taxable Compensation – all compensation items not excludable as income under a specific IRS Code Section

§ 4105. Policy

A. It shall be the policy of the state of Louisiana to report all taxable and nontaxable compensation and withhold all applicable taxes for such compensation as required by the Internal Revenue Code on each scheduled pay period. All taxable compensation not reported on a pay period basis must be added to the employee's Form W-2, Wage and Tax Statement.

B. Values for state owned housing taxable to the employee should be based on fair market values of housing within the assigned area that have similar values. Agencies must also include the value of utilities, such as electricity, gas, water and sewerage, as these costs are excluded from the values provided by the Office of Statewide Reporting and Accounting Policy.

C. Department heads who fail to adequately value, report, or withhold applicable taxes for compensation provided to employees shall be responsible for payment of any tax liability, interest, and penalty from the avails of their respective budget units' appropriations.

§ 4107. Reporting Requirements

A. All departments, agencies, offices, institutions, boards, and commissions within the Executive branch of state government must develop a plan each fiscal year delineating those conditions under which an employee shall receive **any** compensation other than salary, wages, per diem for board members and those benefits provided by the State Employees' Group

Benefits Program and the various retirement systems. The plan must include the specific employee receiving the compensation, the valuation method of the compensation, the value of the compensation, the annual value of the compensation to the employee, and any reason the compensation is partially or fully nontaxable to the employee. Such plan shall be submitted to the commissioner of administration by February 1, each calendar year for the immediately preceding calendar year.

§ 4109. Reimbursed Expenses

Payments to employees in accordance with General Travel Regulations – PPM No. 49 for reimbursement of actual business travel expenses do not constitute compensation reportable under this memorandum per IRS regulations.

§ 4111. Employment Contracts

For purpose of computing taxable compensation, the provisions of an employment contract or state law fixing the terms of employment cannot be considered in determining if fringe benefits are intended as compensation.

§ 4113. Valuation Method

The general valuation rule will be fair market value (FMV). Taxable cash compensation items, regardless of source, are to be reported and withheld at the dollar value paid. Taxable in-kind non-cash compensation, including fringe benefits, are to be included at FMV of the property transferred, excluding any payment offsets at the time of the transfer, unless excluded or adjusted

under a specific Internal Revenue Code Section. There is no taxable compensation if the employee pays 100% of the FMV of the benefit.

§ 4115. Evaluation Tests for Exclusion from Taxable Compensation

The general rules of evaluation to be used in determining if and when a fringe benefit is excludable from (exempt from inclusion as) taxable compensation are as follows:

1. Meals

a. The value of meals furnished to an employee by and on behalf of the state, will be excludable from the employee's gross compensation if two tests are met:

i. The meals are furnished on the premises of the employer, and

ii. The meals are furnished for the convenience of the employer.

b. Meals furnished by the state without charge will be considered furnished for the convenience of the employer if the meals are furnished *for substantial non-compensatory business reasons* of the state rather than as a means of providing additional compensation to the employee.

c. On the premises will be interpreted to mean either:

i. Quarters that constitute an integral part of the business property, or

ii. Premises on which the entity carries on some of its business activities.

2. Lodging

a. The value of lodging furnished to an employee by or on behalf of the state will be excluded from the employee's gross income, if three tests are met:

i. The lodging is furnished on the business premises of the employer,

ii. The lodging is furnished for the convenience of the employer, and

iii. The employee is required to accept such lodging as a condition of his employment. The third requirement means that the employee must be required to accept the lodging on the business premises in order to enable him to properly perform the duties of his employment, which in turn will mean that the lodging is furnished because the employee is required to be available for duty at all times or because the employee could not perform the services required of him unless he was furnished such lodging.

b. On the business premises will be interpreted to mean either:

i. Living quarters that constitute an integral part of the business property, or

ii. Premises on which the entity carries on some of its business activities.

c. Ownership or control by the state of the premises furnished is not a test criterion.

d. Lodging includes the value of utilities and associated or related items such as lawn maintenance, maid service, etc. The value of utilities, etc. furnished to the employee for the convenience of the state is excludable unless the employee contracts directly with the utility, etc. for the service.

3. Transportation

a. The value of personal use of a state vehicle must be included as taxable compensation.

b. The value for use of a state vehicle for commuting purposes shall be a flat $1.50 per one way commute trip ($3 per day for a round trip) if the following conditions are met:

i. The vehicle is owned or leased by the state and is provided for and used for state business;

ii. For bona fide non-compensatory business reasons, the state requires the employee to commute to and from work in the vehicle;

iii. The department, agency, etc. has a written policy which disallows personal use of the vehicle by the employee, or any individual whose use would be taxable to the employee, except for de minimus personal use such as a lunch stop between meetings;

iv. Neither the employee nor any individual whose use would be taxable to the employee uses the vehicle for any personal purposes other than commuting and de minimus personal use; and

v. The employee using the vehicle is not a control employee as defined by the Internal Revenue Service.

c. For valuation of personal use of a vehicle for those employees who use a state vehicle to commute, but do not meet the conditions enumerated above and those employees who have personal use of other modes of transportation, alternative valuation methods are available in the Internal Revenue Code and Regulations.

d. An alternative valuation method, including the cents-per-mile rule or lease valuation method may be utilized.

§ 4117. Parking – Taxable Benefits

A. The Energy Policy Act of 1992 amended the Internal Revenue Code provisions on taxing employer provided transportation benefits. Under these provisions, employer provided parking in a public parking facility valued up to $245 per month for calendar year 2013 may be excluded from taxable income. Any amount in excess of the amount established annually by the IRS less any amount paid by the employee must be included in taxable income.

B. The value of the parking cost is to be based on the cost an employee would incur in an arm's-length transaction to obtain parking at the same site. If this cannot be determined, value

should be based on the cost incurred in an arm's-length transaction to obtain other space in the same lot or a comparable lot in the same general area.

§ 4119. Requests for Information

A. Any questions concerning this memorandum should be directed to the Office of Statewide Reporting and Accounting Policy. P.O. Box 94095, Baton Rouge, LA 70804-9095.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration. LR 15:528 (July 1989), repromulgated LR 20:374 (April 1994), amended LR 25:1406 (August 1999), amended December 2003, amended December 2004, amended December 2005, amended December 2006, amended December 2007, amended December 2008, amended December 2009, amended December 2010, amended December 2011, amended December 2012, amended December 2013