



State of Louisiana
DIVISION OF ADMINISTRATION

OFFICE OF STATEWIDE REPORTING AND ACCOUNTING POLICY

M. J. AMIKE® FOSTER, JR.
GOVERNOR

MARK C. DRENNEN
COMMISSIONER OF ADMINISTRATION

October 18, 2001

MEMORANDUM - OSRAP 02-10

TO: All Departments, Agencies, and Organizational Units within the State of Louisiana

FROM: F. Howard Karlton, CGFM, CPA
Director

RE: Policy and Procedure Memorandum 73 – Taxable and Nontaxable Fringe Benefits

This is to remind you that your 2001 annual reporting requirements, in accordance with Policy and Procedure Memorandum (PPM) 73, is due to this office on **February 1, 2002**. All departments, agencies, and organizational units within the state of Louisiana are required to comply with this executive order in a timely fashion. Department heads failing to adequately value, report, or withhold applicable taxes for compensation provided employees will be held responsible for payment of any tax liability from that budget unit's appropriations.

Any compensation *other than* salary, wages, per diem for board members, and benefits provided by the Office of Group Benefits and the various retirement systems must be reported. Report all fringe benefits paid, taxable or nontaxable, including:

- the *specific* employee receiving the compensation,
- the method used to value the compensation,
- the actual value of the compensation, and
- reason(s) the compensation is fully or partially nontaxable to the employee.

Examples of taxable and nontaxable fringe benefits paid to employees are:

- housing or housing allowance,
- meals or food allowance,
- personal use of a state vehicle or vehicle allowance,
- uniforms and/or
- uniform cleaning allowance, and
- parking.

If there are other types of fringe benefits paid but not included in the above examples, they must be included in your report. You should include a comment indicating whether the amounts are taxable or nontaxable and if applicable taxes have been withheld. An example

would be "These amounts are added to employees' gross income and applicable taxes are withheld from their biweekly payroll checks."

Should your agency provide no forms of taxable or nontaxable fringe benefits, your report should contain such a statement.

Agencies providing personal use of a state vehicle *to control employees* may not use the commuting valuation rule as the valuation method. A control employee of a government is any elected official, any state or local executive officer appointed by the Governor and confirmed by the Senate, or any employee whose compensation is \$150,000 or more. Alternative valuation methods such as the annual lease value method or the cents-per-mile valuation method are available in the Internal Revenue Code and Regulations. These alternative valuation methods may only be used with prior permission of this office.

To standardize responses, the format below **must be used by all entities.**

Employee Name	Type of Compensation	Valuation Method	Value to Employee	2001 Fringe Benefit	Taxable/ Nontaxable	Comments
Doe, John	Personal use of a state vehicle	Daily Commute	\$3.00/day	\$750/year	Taxable	Added to gross income; applicable taxes are withheld from biweekly payroll checks
Jones, Sally	Police Officer Uniform	Cost	\$84.00/uniform	\$168/year	Nontaxable	Uniform is required as a condition of employment

Again, responses must be received in this office no later than the close of business on Friday, February 1, 2002.

A copy of PPM 73 is available on OSRAP's website at <http://www.state.la.us/osrap> as an attachment to Memorandum OSRAP 02-06.

Should you have any questions regarding PPM 73 reporting requirements, contact Ms. Deborah Zundel at (225) 342-2209 or me at (225) 342-0708.

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Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration

Taxable Compensation on Employee Provided Parking
(LAC 4:V.Chapter 41)

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memorandum

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 boards, commissions, departments, agencies, institutions, and offices of the executive branch of state government shall comply with this memorandum.

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).

§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, allowances, vehicle personal usage, moving expenses, etc.

Inkind—noncash 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.

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.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:528 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4105. Policy

A. - C. ...

D. Values for state owned housing taxable to the employee should be based on the values provided by the Office of Statewide Reporting and Accounting Policy. Agencies must also include the value of utilities, such as electricity, gas, water and sewerage service, as these costs

are not included in the values provided by the Office of Statewide Reporting and Accounting Policy

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:528 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4107. Reporting Requirements

A. Each board, commission, department, agency, institution or office must develop a plan each calendar 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 compensation, the valuation method of the compensation, the value of the compensation and any reason the compensation is partially or fully nontaxable to the employee. Such plan shall be submitted for approval to the commissioner of administration by February 1, each calendar year for the immediately preceding calendar year.

B. ...

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4109. Reimbursed Expenses

Payments to employees in accordance with General Travel Regulations—PPM Number 49 for reimbursement of actual business travel expenses shall be treated as a noncompensation item.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§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.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§4113. Valuation Method

The general valuation rule will be FMV. Taxable cash compensation items, regardless of source, are to be reported and withheld at the dollar value paid. Taxable inkind noncash 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 percent of the FMV of the benefit.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§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 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 noncompensatory 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 criteria.

d. Lodging includes utilities and associated 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 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 noncompensatory 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 business meetings;

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

v. the employee using the vehicle is not a control employee as defined in Temporary Regulation Section 1.61-2T(f)(5),(6).

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. the alternative valuation methods, including the cents-per-mile rule or lease valuation method, may be utilized only upon prior approval of the commissioner of Administration.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994), amended LR 25:1406 (August 1999).

§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 \$175 per month may be excluded from taxable income. Any amounts of \$175 or higher must be considered taxable fringes and are to be included in taxable income, unless the employee pays amounts in excess of the \$175 per month.

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 cost 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.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 20:376 (April 1994), amended LR 25:1407 (August 1999).

Mark C. Drennen
Commissioner

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§3511. List of Federal Funding Agencies

Agency/ Designation	Agency	Catalog Number			
AGRI	Department of Agriculture	10.000	RR	Railroad Retirement Board	57.000
COMMERCE	Department of Commerce	11.000	SEC	Securities Exchange Commission	58.000
DEFENSE	Department of Defense	12.000	SBA	Small Business Administration	59.000
HHS	Dept. of Health and Human Resources	13.000	SI	Smithsonian Institute	60.000
HUD	Dept. of Housing and Urban Development	14.000	ITC	International Trade Commission	61.000
INTER	Department of the Interior	15.000	TVA	Tennessee Valley Authority	62.000
JUSTICE	Department of Justice	16.000	VA	Veterans Administration	64.000
LABOR	Department of Labor	17.000	EPA	Environmental Protection Agency	66.000
STATE	Department of State	19.000	ART	National Gallery of Art	68.000
DOT	Department of Transportation	20.000	OPIC	Overseas Private Investment Corporation	70.000
TREASURY	Department of the Treasury	21.000	ACTION	Action Agency	72.000
ARC	Appalachian Regional Commission	23.000	NRC	Nuclear Regulatory Commission	77.000
CAB	Civil Aeronautics Board	26.000	FUTURES	Commodity Futures Trading Commission	78.000
OPM	Office of Personnel Management	27.000	ENERGY	Department of Energy	81.000
CCR	Commission on Civil Rights	29.000	INFO	United States Information Agency	82.000
EEOC	Equal Employment Opportunity Commission	30.000	FEMA	Federal Emergency Management Agency	83.000
FCC	Federal Communications Commission	32.000	EDUC	Department of Education	84.000
FMC	Federal Maritime Commission	33.000	TRUMAN	Harry S. Truman Foundation	85.000
FMCS	Federal Mediation and Conciliation Service	34.000	PENSION	Pension Benefit Guaranty Corporation	86.000
FTC	Federal Trade Commission	36.000	CPSC	Consumer Product Safety Commission	87.000
FCSC	Foreign Claims Settlement Commission of the United States	37.000			
GSA	General Services Administration	39.000			
GPO	Government Printing Office	40.000			
ICC	Interstate Commerce Commission	41.000			
LIBRARY	Library of Congress	42.000			
NASA	National Aeronautics and Space Administration	43.000			
NCU	National Credit Union Administration	44.000			
NAandH	National Foundation on the Arts and the Humanities	45.000			
NLRB	National Labor Relations Board	46.000			
SCIENCE	National Science Foundation	47.000			
PCEH	President's Council on Employment of the Handicapped	53.000			

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:99 and Executive Order Number 85-52.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 11:1057 (November 1985).

Chapter 41. Taxable Compensation—PPM Number 73

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

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:528 (July 1989), repromulgated LR 20:375 (April 1994).

§4105. Policy

A. It shall be the policy of the state of Louisiana to report all taxable compensation and withhold all applicable taxes for such compensation as required by the Internal Revenue Code on each scheduled pay period.

B. Effective July 1, 1989 for calendar year 1989 and for each calendar year thereafter, all taxable compensation shall be reported and a withhold of applicable taxes shall be processed each pay period. For the period of January 1, 1989 through June 30, 1989 all taxable compensation not reported on a pay period basis shall be included on the employee's Form W-2 Wage and Tax Statement for calendar year 1989.

C. Applicable taxes for taxable compensation received in the form of cash during the period of January 1, 1989 through June 30, 1989 must be withheld during calendar year 1989.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:528 (July 1989), repromulgated LR 20:375 (April 1994).

§4107. Reporting Requirements

A. Each board, commission, department, agency, institution, or office 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

Employee 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, and any reason compensation is partially or fully nontaxable to the employee. Such plan shall be submitted for approval to the commissioner of Administration by September 1, 1990, and each September 1, thereafter.

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

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994).

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The general valuation rule will be FMV. Taxable cash compensation items, regardless of source, are to be reported and withheld at the dollar value paid. Taxable inkind noncash 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 percent of the FMV of the benefit.

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- 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 noncompensatory 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 criteria.

d. Lodging includes utilities and associated 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 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 noncompensatory 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 business meetings;

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

v. the employee using the vehicle is not a control employee as defined in Temporary Regulation Section 1.61-2T(f)(5),(6).

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. the alternative valuation methods, including the cents-per-mile rule or lease valuation method, may be utilized only upon prior approval of the commissioner of Administration.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, LR 15:529 (July 1989), repromulgated LR 20:375 (April 1994).

§4117. Parking—Taxable Benefits

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 \$155 per month may be excluded from taxable income. Any amounts of \$155 or higher must be considered taxable fringes and are to be included in taxable income. The value of the parking cost is to be based on the cost an employee would incur in an arms-length transaction to obtain parking at the same site. If this cost cannot be determined, value should be based on the cost incurred in an arms-length transaction to obtain other space in the same lot or a comparable lot in the same general area.

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Commissioner's Office, LR 20:376 (April 1994).

Note: No authority notes are required for rules or policy and procedure memoranda promulgated by the commissioner of Administration.