



# Employee Non-Cash Awards and Other Gifts

<b>Responsible Officer:</b>	AVP - Systemwide Controller
<b>Responsible Office:</b>	FA - Financial Accounting
<b>Issuance Date:</b>	12/11/2023
<b>Effective Date:</b>	1/1/2024
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<b>Scope:</b>	<p>This policy applies to staff employees, student employees, and academics. The policy does not apply to the Lawrence Berkeley National Laboratory. In addition, the following types of awards are not covered:</p> <ul style="list-style-type: none"> <li>• Staff Recognition and Development Program (SRDP) or related campus award programs</li> <li>• Clinical Enterprise Recognition Plan (CEMPR)</li> <li>• Professional development program awards</li> </ul>

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## I. POLICY SUMMARY

The University’s policy aligns with IRS regulations. Therefore, the awards and gift limits are established so that the gift does not result in taxable income to the employee.

## II. DEFINITIONS

Not applicable.

## III. POLICY TEXT

### A. Award and Gift Limits

The following table includes the per-person limits for the awards and gifts allowable under this Bulletin. The tax treatment of the amounts approved in excess of these limits, as an exception, is described in the notes to the table. Although awards in excess of the limits are discouraged, this table provides guidance on the resulting tax treatment in those situations where the limits are exceeded due to unavoidable circumstances.

Campuses may establish more restrictive gift procedures, policies, and dollar limits than those set forth in this policy.

Award or Gift Type	Per-Person Limit <sup>1</sup>	Tax Treatment if Limit Exceeded	For Further Details, see:
Employee Recognition (including Spot Awards)	\$75	a	III.B.1, B.2
Employee Recognition: One-month parking permit	\$315 <sup>2</sup>	c, d	III.B.1
Employee Recognition: One-month transit pass	\$315 <sup>3</sup>	c, d	III.B.1
Length of Service	\$400	b	III.B.2
Retirement	\$400	b	III.B.3
Sympathy Gift – Tangible Personal Property	\$75	a	III.C
Sympathy Gift – Cash Contributions	\$200	e	III.C
Prizes and Other Gifts	\$75	a	III.D

<sup>1</sup> The per-person limits do not include incidental costs such as costs for engraving, packaging, insurance, sales tax, mailing, and the cost of gift wrapping that does not add substantial value to the gift.

<sup>2</sup> Effective 1/1/2024.

<sup>3</sup> Effective 1/1/2024.

**Notes:**

- a. If the cost (or value) of the award or gift exceeds the \$75 de minimis limit under I.R.C. Section 132(e), the entire amount is taxable.
- b. If the cost (or value) of a length of service or retirement award that is tangible personal property exceeds \$400, only the amount in excess of \$400 is taxable to the employee. Note that gift cards of any value that are provided for a length of service or a safety award are not considered tangible personal property and are subject to withholding as wage income.
- c. If the cost (or value) of a monthly parking permit or transit pass award exceeds the per-person limit, only the amount in excess of the limit is includible in an employee's gross income, subject to withholding of applicable income, social security, and Medicare taxes.

If the entire cost (or value) of a monthly parking permit or transit pass award is not treated as a pretax transportation benefit, then the entire amount is includible in an employee's gross income, subject to withholding of applicable income, social security, and Medicare taxes.

- d. The award amounts conform to the monthly pretax transportation limits that are indexed for inflation by the IRS. The adjusted limits are announced annually by the Associate Vice President – Systemwide Controller.
- e. Since a contribution made to a charity must be made in the name of the University, there is no tax consequence if the limit is exceeded.

**B. Award and Gift Limits**

Employee recognition, length of service, and retirement non-cash awards must conform to the following requirements:

**1. Employee Recognition**

An item of ***tangible personal property*** may be awarded to an employee in recognition of their noteworthy work-related accomplishments. Such awards should be of minimal value. Examples include, but are not limited to, flowers, fruit, a book, a plaque, or similar item. In addition, a ticket to a sporting or cultural event (excluding a season ticket) or a one-month parking permit or transit pass may be provided to an employee as a recognition award. The cost of an employee recognition award is limited to the per-person amount set forth in section III.A.

Employee recognition awards are meant to be ***occasional*** and therefore must be presented to an employee on an infrequent basis. An employee should not receive more than ***three*** such awards in a calendar year. Awards presented to an employee on a ***regular or routine*** basis do not meet the IRS test for exemption and are not allowable.

Employee recognition awards should be provided within an established recognition program and based on objective criteria. Such awards must also be presented to employees on a basis that does not discriminate in favor of highly compensated employees.

## Employee Non-Cash Awards and Other Gifts

### a. Gift Certificates and Cards<sup>4</sup>

Only **nonnegotiable** gift certificates and gift cards (i.e., stored-value bank, department store, and other retail cards) qualify as non-cash awards.<sup>5</sup> Such gift certificates and cards must confer only the right to receive tangible personal property, not cash or cash for the difference between the purchase price and the value of the gift certificate or card. Under these rules, a gift certificate or card will qualify as tangible personal property if it is:

- Inscribed with the recipient's name,
- Not transferable, and
- Cannot be redeemed for cash or used to reduce the balance due on the recipient's account with the merchant.

The IRS tangible personal property criteria do not apply if a gift certificate or card entitles an employee to choose between selecting an item of merchandise or receiving cash or reducing the balance due on their account. Nor do they apply if the gift certificate is for services (e.g., facial, spa treatment, golf lessons, etc.) because such services do not constitute tangible personal property.

If a gift card cannot be inscribed (or written in indelible ink) with the recipient's name, the department should inform the employee that the card should not be transferred to another individual.

### b. Quantity Purchases of On-the-Spot Awards

Spot awards are non-cash employee recognition awards (e.g., gift certificates or cards) designed to recognize and reward meritorious individual and/or team accomplishments. Because such awards may be presented at any time during the year, departments may purchase advance quantities of gift certificates and cards for this purpose.

The following controls should be established with respect to the quantity purchase of gift certificates and cards used for Spot Awards:

- Departments should institute appropriate controls to ensure that all pre-purchased gift certificates and cards are kept in a secure place and that a record documenting the use of the certificates and cards is maintained.
- Departments should be careful to purchase only the number of gift certificates and cards expected to be awarded during a fiscal year.

Gift certificates and cards with a value greater than the per-person limits specified in section III.A. should not be purchased.

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<sup>4</sup> The treatment of **nonnegotiable** gift cards and gift certificates as non-cash awards does not apply when these are given as Length of Service Awards. Please see Section III.B.2. for more information.

<sup>5</sup> Gift certificates under \$10.00 should not be purchased because under California law, gift cards or certificates with a face value of less than \$10.00 must be redeemable in cash (Section 1749.5 of the Civil Code).

## 2. Length of Service

An item of tangible personal property may be presented to an employee for meritorious length of service to the University. Such awards are subject to the following limitations:

- The award must be given for a length of service achievement,
- The recipient must have completed at least five years of service, and
- The recipient must not have received a similar length of service gift in any of the prior four years.

A length of service award shall not exceed the per-person limit specified in Section III.A.

The following properties are subject to wage withholdings because they are not considered tangible personal property for purposes of Length of Service Awards under I.R.C. Section 274(j)(3)(A)(ii)<sup>6</sup>: cash, cash equivalents, gift cards<sup>7</sup>, gift coupons, or gift certificates vacations, meals, lodging, tickets to theater or sporting events, stocks, bonds, other securities, and other similar items.

## 3. Retirement

An item of tangible personal property may be presented to an employee upon their retirement from the University, subject to the per-person limit included in Section III, A. This does not apply to farewell gifts.

The awards described in sections 2 and 3 above must be awarded as part of a meaningful ceremony and should not be determined based on an employee's classification.<sup>8</sup> A non-negotiable gift certificate for tangible personal property may be presented to the employee under the retirement award category, subject to the requirements described in the section on allowable awards for employee recognition (see above).

## C. Sympathy Gifts

Gifts of tangible personal property, such as flowers, may be presented as an expression of sympathy in the event of the death or major illness of an employee or a member of the employee's family or household. A similar type gift may be provided to recognize a birth. The cost of such gifts is limited to the amount specified in section III.A.

As an alternative, a cash contribution may be made to a charitable organization in lieu of a gift of tangible personal property. Such contributions must be accompanied by a transmittal letter on official University letterhead, which states that the donation was made on behalf of the University. Contributions may not be made to any political

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<sup>6</sup> I.R.C. Section 274(j)(3)(A)(ii) was added under P.L. No. 115-97.

<sup>7</sup> Both negotiable and nonnegotiable.

<sup>8</sup> The reimbursement of expenses related to employee recognition ceremonies and similar events is addressed in Business and Finance Bulletin BUS-79, Expenditures for Business Meetings, Entertainment, and Other Occasions.

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campaign, political party, committee, or group engaged in any attempt to influence the general public with respect to legislative matters, elections, or referendums.

### ***D. Prizes and Other Gifts***

Occasionally, departments will hold raffles for door prizes and other gifts to entice employee participation in an event. In addition, departments may provide gift cards and other tangible personal property to employees as an incentive to complete a survey or questionnaire. Departments should limit the value of such prizes and gifts purchased with University funds to the per-person limit specified in section III. A for employee recognition awards.<sup>9</sup>

### ***E. Unallowable Awards and Gifts***

Examples of **unallowable** awards and gifts include the following:

- Gifts of cash, except donations to a charity as an expression of sympathy,
- Negotiable gift certificates and cards,
- Gift certificates and cards for services,
- Recreation memberships,
- Season tickets to sporting or cultural events,
- Gifts provided to employees in connection with birthdays, weddings, anniversaries, holidays, farewells, graduations and other occasions of a personal nature, and
- Properties described in Section III.B.2. that are not considered tangible personal property for purposes of Length of Service Awards under I.R.C. Section 274(j)(3)(A)(ii).

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<sup>9</sup> The employee recognition award limit would not apply if an outside party (e.g., a vendor) selects and distributes the prize, award, gift certificate, or other item directly to the employee without any direction or decision making on the part of the University. The value of the prize or award must be reported by the outside party on a Form 1099 if the amount is \$600 or more.

#### IV. COMPLIANCE/RESPONSIBILITIES

Function	Responsibilities
Executive Vice President- Chief Financial Officer	Establishing and updating procedures and award and gift limits.
Department Heads	Ensuring that any awards made to employees conform to requirements of this policy. Ensuring that claims submitted for payment or reimbursement includes appropriate supporting documentation. Monitoring the frequency and number of awards made to employees. Establishment of appropriate controls to ensure all pre-purchased gift certificates and cards kept in a secure place and record their usage.
Campus and Lab Controller's Offices	Ensuring that payment or reimbursement requests submitted by departments for non- cash award and gift expenditures are made in accordance with the procedures set forth in this policy. Controls for direct and indirect charges to federal funds.

Payment Approval Authority	Exceptions Permitted	Exception Approval Authority	Comments
Department Head Authority to approve requests to reimburse expenses under this Bulletin. A Signature Authority or Cancellation form, or its electronic equivalent, must be on file for individuals who have been delegated this authority.	Yes	Exceptions may be authorized by the President; Provost; Executive Vice President- Chief Operating Officer; Vice President- Agriculture and Natural Resources; Chancellors; Principal Officers of The Regents; or their designees. Other written delegations may be at the discretion of the campus.	Approving authority for exceptions should be restricted to a limited number of high-level individuals and must be specifically delegated in writing. This authority must not be re- delegated. An exception request must specify the type of award, the purpose of the award, the special circumstances that require an exception, and the name of the employee for whom the exception will be granted. Exceptions to the per-person limits specified in section III.A of this Bulletin should be avoided, as they would create additional taxable income for the employee.

## V. PROCEDURES

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### A. Funding Restrictions

1. State Funds<sup>10</sup> **may** be used for expenditures associated with:
  - Employee recognition,
  - Length of service, and
  - Retirement awards.
2. Federal or State Funds may **not** be used for:
  - Sympathy gifts and cash contributions, and
  - Raffle prizes, door prizes, and incentive gifts to complete surveys and questionnaires.

The terms set forth in an extramural award shall govern, when such terms are more restrictive than University policy. If Federal funds will be charged, directly or indirectly, campus procedures and controls must be in place to ensure that the requirements of [2 CFR Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#) are met.

3. Non-State Funds

Various non-State funds controlled by the University (e.g., endowments, gifts, etc.) may be used for employee awards, in accordance with this policy and subject to any restrictions on those funds.

### B. Payment or Reimbursement Procedures

Requests for payment or reimbursement of employee non-cash award or sympathy gift expenditures must be submitted on a Form U-5, Check Request, or an equivalent campus electronic form. All expenses must be supported by original receipts or by acceptable electronic receipts, including a PDF of the original receipt.

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## VI. RELATED INFORMATION

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For information on Gifts Presented to Non-Employees on Behalf of the University, see [G-42, Gifts Presented to Non-Employees on Behalf of the University](#) - (e.g., eligible and ineligible gift recipients, gift value and frequency, and basis for allowed gifts).

For cash contributions associated with an employee's attendance at a community or charitable fundraising event, see [BUS-79, Expenditures for Business Meetings, Entertainment, and Other Occasions](#).

[A-253-27, Administrative Fund Payments](#) - Non-cash gifts and cash contributions made on behalf of the University by recipients of Administrative Funds.

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<sup>10</sup> State funds have been identified by the system-wide budget office as encompassing all State General Funds and State Special Fund appropriations to a campus. This includes all of the 199XX funds except those that are classified as UC General Funds (i.e.; 199331, 19933, 19934, 19940, 19941, and 19942).



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[D-224-17](#), *Delegation of Authority –Signature Authority*.

D-371-16, *Disbursements: Approvals*.

For information on the tax considerations with gifts or prizes provided to nonresident alien employees, see T-182-27, *Federal Taxation of Aliens*.

Public Law No. 115-97

Internal Revenue Code Sections:

<b>Sections</b>	<b>Descriptions</b>
Section 132	Certain Fringe Benefits
Section 274 (b)	Gifts
Section 274	Employee Achievement Awards

[2 CFR Part 200](#)-*Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Rev. Proc. 2022-38, 10/18/2022.

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## VII. FREQUENTLY ASKED QUESTIONS

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Not applicable.

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## VIII. REVISION HISTORY

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**1/1/2024:** Revised to reflect the increase in the pre-tax monthly limit for a parking pass and a transit pass per Rev. Proc. 2023-24. Updated contact info.

**1/1/2023:** Revised to reflect the increase in the pre-tax monthly limit for a parking pass and a transit pass per Rev. Proc. 2022-23

**1/1/2022:** Revised to reflect the increase in the pre-tax monthly limit for a parking pass and a transit pass per Rev. Proc. 2021-45. Changed contact to David Won.

**1/31/2020:** Revised to reflect the increase in the pre-tax monthly limit for a parking pass and a transit pass per Rev. Proc. 2019-44.

Removed all references to the unrelated business income tax (UBIT) provision of I.R.C. Section 512(a)(7), which subjected the University to UBIT for the amount of an award that is treated as pretax transportation benefits. I.R.C. Section 512(a)(7) was repealed under Section 302 of H.R.1865 - Further Consolidated Appropriations Act, 2020 (P.L. No. 116-94), signed December 20, 2019.

Revised language to gender-neutral.

**1/30/2019:** Revised to reflect the increase in the pre-tax monthly limit for a parking pass and a transit pass per Rev. Proc. 2018-57.

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This Policy was also remediated to meet Web Content Accessibility Guidelines (WCAG) 2.0.

**3/15/2018:** Updated that all gift cards and gift certificates given as Length of Services Awards are subject to wage withholding because they are not considered tangible personal property for such awards under I.R.C. Section 274(j)(3)(A)(ii). Updated to include that the University will be subject to unrelated business income taxes (UBIT) on the cost (or value) of pretax transportation benefits awards under I.R.C. Section 512(a)(7). These changes were made due to Public Law No. 115-97. Added footnote to define “State Funds” and made minor technical revisions. Revised to reflect the increase in the one month parking permit and transit pass per Rev. Proc. 2017-58.

**3/1/2016:** Revised to reflect the increase in the one month parking permit and transit pass per Rev. Proc. 2015-53 and the PATH Act, effective 3/1/2016. Updated OMB Circular A-21 with 2 CFR Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

**1/1/2014:** Revised to reflect the increase in the one month parking permit and the decrease in the one month transit pass per IRS Rev. Proc. 2013-35, effective 1/1/2014.

**1/1/2013:** Updated to reflect the increased monthly limitation for transit passes and parking per IRS Revenue Procedure 2013-15, effective 1/1/2013.

**10/27/2011:** Placed into into the official University of California policy template.

**3/12/2008:** Updated to provide guidance on the use of gift certificates, door prizes and other incentive gifts, sympathy gifts, and the summarization of the per-person award limits with the corresponding tax treatment as an appendix to the Bulletin.

**3/15/1999:** First Published