

SECTION

ACCOUNTING AND FINANCE

TITLE

GIFTS, AWARDS OR PRIZES TO EMPLOYEES AND PHYSICIANS

NUMBER

95-4

EFFECTIVE DATE

11-01-02

REVISION DATE

02-17-04

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PURPOSE

Gifts, awards and prizes are issued to employees and physicians for a variety of reasons. Though the value of individual gifts issued may be minimal, the cumulative liability for Kaiser Permanente (KP) could be significant if these transactions are not properly accounted for. This policy clarifies reporting requirements to keep Kaiser Permanente in compliance with Federal and State income tax laws.

GENERAL

- A. Federal and State law states that awards, gifts or prizes given in cash, as merchandise or in the form of a gift certificate are to be treated as employee income. Therefore, tax must be either deducted or accrued and reported by the employer for Federal (FIT) and State (CIT) Income Tax, Federal Insurance Compensation (Social Security) and for California Disability Insurance.

Section 61(a) of the IRS Tax Code defines income as "compensation for services including fees, commissions, fringe benefits and similar items," including amounts "transferred by or for an employer to, or for the benefit of, an employee." In general, this means that any item that enhances the economic well being of an employee is subject to Federal and State withholding regulations. However, there are a few notable exceptions:

1. Nominal **non-cash** awards of tangible personal property such as pins, mugs, pens, T-shirts, promotional items, etc., imprinted with a corporate logo and given for productivity or as an incentive. These items are generally treated as *de minimis* (so small that the cost of accounting for the gift exceeds the value of the gift given). These items are not considered to enhance an employee's income, and therefore are not subject to withholding regulations.
2. Nominal **cash equivalent** gifts are not adequately addressed by the IRS. This leaves decisions on gift types and limits to the discretion of the employer. Cash equivalent gifts include (but are not limited to) gift certificates and gift cards issued by credit card companies (e.g. American Express, Visa, etc.) and department stores (e.g. Macys, Nordstrom, Target, etc.).

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3. Retirement awards given for lengthy periods of employment.
4. Awards of tangible personal property given for safety achievement or for length of service of five years or more - in five-year increments. These awards must be awarded as part of a meaningful presentation, and under conditions or circumstances that do not create a significant likelihood that the payment is made to disguise compensation. Each award may not exceed a cost of \$400 unless a Qualified Plan has been implemented.

Federal Tax Law requires that a Qualified Plan be a written plan that does not discriminate in favor of highly paid employees/physicians, and is not used to disguise compensation. Furthermore, a Qualified Plan requires the annual average cost of safety and lengths of service awards not exceed \$400 per person. However, an individual employee may receive one or more awards as long as the total cost of such award(s) does not exceed \$1,600 within a year.

5. Awards given to Southern California Permanente Medical Group partner physicians, as they are responsible for their own taxes.

POLICIES

- A. All gifts, awards and prizes given to Kaiser Permanente employees (especially in the form of cash or check) are subject to tax withholding in accordance with Federal and State laws.
 1. Certain gifts, awards and prizes that meet specific criteria, and that are given **infrequently**, are excludable from FIT and CIT requirements. These items are:
 - a. Nominal **non-cash** awards (tangible personal property) and **cash equivalent** gifts with a value of **\$50 or less** may be given without tax impact to the employee or physician. Gifts exceeding \$50 in value must be reported to the Regional Payroll department on the "Notice of Non-Cash Gift, Award or Prize" form (Exhibit A).

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Caution! Multiple gifts given within a 30-day period that in total exceeds \$50 must be reported to Regional Payroll as a taxable compensation.

- B. Formal employee programs that provide cash or merchandise awards must be documented in writing and approved by the Health Plan/Hospitals Functional Area Vice-President, Medical Group Administrator or Senior Staff Manager and the Vice President of Human Resources prior to implementation. A copy of the program, when approved must be forwarded to the Regional Controller to satisfy Federal and State tax auditing requirements.

RESPONSIBILITIES

- A. The Employee's Manager or Gift Presenter must complete one of the following forms:
1. **Non-cash** transactions (**including gift cards and gift certificates**) in excess of \$50 should be submitted on a "Notice of Non-Cash Gift, Award or Prize" form (Exhibit A). The form must be completed and submitted no later than the sooner of the following:
 - a. 30 days after a gift, award or prize is given, or
 - b. Before the close of the fiscal year.
 2. Cash awards, gifts and prizes (**KP issued checks to employees**) are to be submitted by the awarding (requesting) department on a "Cash Gift, Award or Prize - Check Request" form (Exhibit B).
 3. If the award is related to the Employee Referral Award Program, an "Applicant Referral" form should be completed. **This form is submitted to the local recruitment office**, which in turn submits it to the Regional Payroll Department.

NOTE: All forms are to be approved by a manager with an adequate Funds Disbursement Authorization limit.



SOUTHERN CALIFORNIA POLICY

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- B. The Payroll Department will calculate the appropriate taxes for each award and will include an amount to cover these taxes in the "gross amount" of the award to be reported in the recipient's "gross income." For all employees who receive such an award, either by cash, check or merchandise, Payroll will withhold the appropriate amount for taxes owed to State and Federal agencies, and the employee will receive the "net value" of the award. No withholding will be made for awards to partner physicians as they are responsible for paying their own taxes.

REFERENCES

California Regions Policies (found on the Financial Governance website at <http://kpnet.kp.org/california/financialgovernance/capolicy.htm>)

- 20-2 Requests for Payments/Check Requests and Approved (Direct) Invoices
- 20-3 Delegation of Authority (AKA Funds Disbursement Authorization) for California Division KFHP/H and Subsidiaries

FORMS

The "Notice of Non-Cash Award Payment Request" form (Exhibit A) and the "Cash Gift, Award or Prize - Check Request" form (Exhibit B) is located on the Finance website at http://kpnet.kp.org/california/finance/forms_policies.htm

The "Applicant Referral" form will be located on the Human Resources website at <http://www.kaiserpermanente.org/xnet/hr/ca/index.html>

