

TAXABLE ALLOWANCES
INCLUDING DISCUSSION OF:

**NON-TAXABLE ACCOUNTABLE
EXPENSE REIMBURSEMENTS**

VS

**TAXABLE ALLOWANCES, WAGES, LOST
TIME, REIMBURSED DUES, AND
PAYROLL TAXES**

TAXABLE ALLOWANCES

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ACCOUNTABLE VS NON-ACCOUNTABLE (NON-TAXABLE VS TAXABLE PAYMENTS)

The Internal Revenue Service recognizes that there are various types of expense reimbursements. IRS Code defines two broad categories of payments to individuals and employees - Accountable (non-taxable) and Non-Accountable (taxable).

The Glossary section included with AFSCME's Financial Standards Code provides a summary definition of these two types of "reimbursement plans". Both plans involve payments to individuals. The general difference between these two arrangements is as follows:

Reimbursed Expenses - Accountable Plan

- Reimbursement for approved costs incurred on behalf of the affiliate.
- Expense report is required.
- Receipts are submitted to the affiliate.
- Specific Union purpose of each item is explained.
- Treated as non-taxable.
- Neither the individual nor the affiliate is required to report the payments or the expenses to the IRS.

Expense Allowance Non-Accountable Plan

- Compensation for costs expected to be incurred in performing union services.
- No expense report or other accounting for these funds is required.
- Treated as compensation.
- Includes: car allowances, officer allowances, stipends and any other payments to officers for which no accounting is required or expected.

EXAMPLES OF TAXABLE AND NON-TAXABLE PAYMENTS

	<u>W-2</u> Taxable Income	<u>Non W-2</u> Reimbursed Expense
Affiliate President John Smith receives a monthly allowance of \$50.00.	√	
Affiliate Treasurer Jane Brown is paid mileage (300 miles at 70.00 cents per mile)		√
Steward Sarah Miles receives lost time payment for contract negotiations.	√	
Affiliate Secretary Shelly Jones receives a \$250.00 advance for convention lodging and meals. She provides \$248.00 in receipts and returns \$2.00 to the affiliate.		√
Affiliate Vice President Jim Jones receives \$250.00 to pay for convention expenses and does not provide receipts.	√	
Steward Jack Green has his union dues reimbursed by the affiliate.	√	
Affiliate President Jay Hall purchases supplies for the affiliate and submits the receipt and expense report for payment.		√
Affiliate Executive Board member Robin Williams receives a \$50.00 meeting allowance for attending an officer work shop.	√	
Steward Tim Johnson receives \$40.00 for contract negotiations.	√	
Affiliate Treasurer Sally Smith receives \$22.40 for long distance calls after submitting a copy of her phone bill with union calls marked.		√

REPORTING & DOCUMENTATION REQUIREMENTS

If a payment is treated as taxable income (payroll), the affiliate must:

- **Withhold payroll taxes.**
- **Pay employer's matching Social Security and Medicare taxes.**
- **Deposit these taxes into a bank.**
- **File the appropriate payroll tax reports with both the IRS and state.**
- **Inform the individual and IRS of the amount paid and taxes withheld by preparing IRS Form W-2 by January 31 following the tax year in question. IRS Form W-3 is used to transmit W-2 forms.**

If a payment is treated as a non-taxable reimbursed expense:

- **The affiliate is not required to report this payment to the IRS.**
- **The individual is not required to report this payment to the IRS.**
- **The individual must submit an expense report with receipts attached to account for expenses paid by the affiliate.**

NOTE: Keep a copy of any forms filed with the IRS or State for the affiliate's records.

ACCOUNTABLE (NON-TAXABLE) REIMBURSEMENTS

REIMBURSED EXPENSES

A payment represents reimbursement to an officer or member if payment is for:

1. actual expenses incurred, AND
2. a list of expenses on an expense report is submitted to the affiliate union, AND
3. a receipt is provided for each item to be reimbursed.

The officer or member must submit original paid receipts for all expenses incurred. By submitting paid receipts, the officer or member has accounted to the union for expenses. Under the “Accountable Plan” rules, neither the union nor the individual is required to provide an accounting or report of the payments to the Internal Revenue Service (IRS).

EXAMPLES OF REIMBURSED EXPENSES

An affiliate’s membership and/or Executive Board authorizes reimbursement:

1. for items purchased for the affiliate’s use such as office supplies or postage stamps.
2. for automobile mileage at 70.00 cents per mile (2025 approved Federal mileage rate). Union purpose of the trip must be documented on an expense report (travel to union meeting, grievance handling, etc.)
3. for documented pre-approved expenses incurred for attending a convention.

ADVANCES FOR EXPENSES TO BE REIMBURSED

The union may provide an employee, officer or member with an advance of funds for expenses to be incurred. Advances should only be given for specific costs to be incurred, and only with the approval of the Executive Board. The person receiving the advance must submit a timely expense report with paid receipts for all expenses incurred against the advance.

If the pre-approved authorized expenses exceed the original advance amount, a check may be issued to the individual to reimburse the additional costs. If the expenses incurred are less than the advance amount, the difference must be immediately reimbursed by the individual to the union.

NON-TAXABLE PER DIEM PAYMENTS

Per Diem is an amount provided to an individual to cover general daily costs -- meals and incidental costs -- when traveling out-of-town. The Federal government provides a table of the maximum amount of per diem that can be paid in specific cities. A copy of this government table is provided in this section.

Any amount paid for out-of-town per diem is non-taxable provided:

1. the amount is equal to or less than the maximum federal rate, AND
2. an overnight stay was involved, AND
3. the trip was related to union business, AND
4. an expense report was filed documenting the business purpose of the trip, showing per diem, and other costs incurred. The dates for which per diem is paid must agree to approved travel dates.

Federal law allows payment of 75% of the out-of-town per diem rate for the first and last day of travel. An alternative way of calculating this amount would be to pay the full out-of-town per diem on the first day of travel, but only pay 50% of the out-of-town per diem rate on the last day of travel (the day of return).

Out-of-town per diem paid in excess of the allowable federal rate is taxable for the portion exceeding the federal guidelines.

ACCOUNTABLE PLAN REPORTING REQUIREMENTS

The following are financial responsibilities of the affiliate and the individual concerning ACCOUNTABLE reimbursed expenses. Please note that all payments must be approved by the affiliate's membership and/or Executive Board.

Reimbursed Expense Responsibilities of the Affiliate

1. Proper supporting documentation (an expense report with original receipts attached) must be received before issuing a check. Expense reports and original receipts must be maintained in the affiliate's files.
2. Reporting to the IRS or the individual is not required.

Reimbursed Expense Responsibilities of the Individual

1. Submit proper supporting documentation and receipts.
2. Reporting to the IRS is not required.

NON-ACCOUNTABLE (TAXABLE) PAYMENTS

WAGES or SALARY

Compensation of employees represents the most common taxable payment made by the union. Any payment of income to an individual who is a full or part-time employee of the affiliate, is considered wages or salary, and is taxable.

Special IRS rules apply to officers that generally require all “non-accountable” payments to the individual to be considered wages, subject to all payroll tax reporting regulations. These payments are discussed in a 1992 letter with a 1991 IRS Private Letter Ruling included in this section.

LOST TIME PAYMENTS

Many employers permit union officers or representatives to spend some of their working hours on affiliate business. In some instances, the agreement with the employer provides for “union leave”, where the employer continues to pay wages and benefits for the member while they are performing union business.

By contrast, some employers allow the member time off, but it must be taken as either “leave without pay” or as vacation. Often the amount of time spent by these members would either consume all of their vacation or else would exceed the member’s available time off.

In order for the member to be paid when the employer does not provide for “union leave”, the member must have lost wages or used vacation time. The Department of Labor does not approve of a person being paid by both their employer and the union, and has been known to initiate criminal action when it finds this type of double compensation. The union should therefore not pay “lost time” when the member has been paid “union leave” by the employer.

If the affiliate reimburses an officer or other member for wages actually lost, the payment is referred to as a LOST TIME payment. The person receiving “lost time” should provide the union with a pay stub to verify that they actually lost wages or used vacation leave. The rate of pay by the union can be the member’s actual salary, an average, or an agreed upon rate for all members regardless of their individual hourly rate.

For payroll tax purposes, lost time must be treated as actual wages by the affiliate. This means that the affiliate is responsible for withholding payroll taxes for these payments, depositing these taxes and filing required reports with the IRS and state authorities.

OTHER TAXABLE ALLOWANCES

OFFICER ALLOWANCES/STIPENDS

Allowances/Stipends are paid to an officer or employee to cover miscellaneous out-of-pocket expenses incurred by the individual while conducting affiliate business. The recipient of an allowance/stipend is not required to provide any accounting or receipt for these payments.

Allowances/Stipends are “Non-Accountable” payments that must be reported as wages to the individual and to the IRS. The union as the employer must withhold taxes and complete all required payroll tax reporting forms of both the federal and applicable state government.

Affiliate Executive Board policy must clearly state the individuals authorized to receive allowances or stipends. That policy must also state the amount of each authorized payment. All allowances/stipends must be approved by the membership or the Executive Board and such approval must be reflected in the meeting minutes of the respective body.

REIMBURSED DUES

Some affiliates pay allowances to officers that are exactly equal to the union dues paid by the member. This “reimbursed dues” -- even though intended as a refund of amounts paid from the member’s after tax dollars -- is considered to be a taxable allowance by the IRS. In order to be a union officer, an individual must be a dues paying member in good standing

Reimbursed dues are considered to be compensation to officers, Executive Board members and/or stewards as they are considered to be payment for union related services.

Affiliate Executive Board policy must clearly state which union positions qualify for this taxable “reimbursement” and establish the criteria under which the payment will be made (i.e., must attend union meetings). Authorization for these payments must be documented in the meeting minutes of the Executive Board or membership or be clearly stated in the affiliate’s constitution.

PER DIEM PAYMENTS

Payments made to an officer, employee or member to cover incidental costs incurred while performing union business -- whether they are called an allowance, stipend, dues reimbursement or in-town per diem -- are considered to be taxable as wages.

For per diem to be non-taxable, it must meet all of the criteria listed in the previous Non-Taxable Per Diem section. Per diem that is not supported by an expense report and was not for an overnight stay is taxable income.

Also, per diem paid under the “Accountable Plan” rules that is paid in excess of the federal per diem rates is taxable for the portion in excess of the allowable rate.

NON-ACCOUNTABLE PLAN REPORTING REQUIREMENTS

The following are financial responsibilities of the affiliate and the individual concerning payroll and NON-ACCOUNTABLE reimbursed expenses. Please note that all payments must be approved by the affiliate's membership and/or Executive Board.

Payroll Responsibilities of Affiliate

1. Prepare IRS Form W-2 at the end of the tax year and give to individual and IRS, reporting all taxable amounts.
2. Withhold payroll taxes and pay employer's matching Social Security and Medicare taxes.
3. File the appropriate payroll reports with federal and state authorities.

Payroll Taxes Overview

Because of the complexity of payroll tax preparation and filing requirements, as well as large penalties assessed for late filing, payroll tax preparation services are highly recommended. The following steps must be taken regarding payroll:

Withholding

- Obtain an IRS Form W-4, "Employee's Withholding Allowance Certificate", from the individual showing a Social Security number and number of exemptions claimed.
- Use the tax charts in Circular E to determine the amount of federal income tax to be withheld.
- Use state tax schedules to determine the amount of any state tax to be withheld.

Reporting To The IRS

- **Deposits of Amounts Withheld**
- Refer to Circular E, Employer's Tax Guide, which outlines the requirements for reporting and depositing payroll taxes withheld from wages.

Form 941, Employer's Quarterly Federal Tax Return

This form is prepared at the end of each quarter as a summary report on total payroll taxes due and deposited. All employment taxes (Social Security, Medicare and withheld federal income taxes) must be deposited electronically using the Electronic Federal Tax Payment System (EFTPS). To enroll, visit the EFTPS website at www.eftps.gov or call 1-800-555-4477.

Form 944, Annual Employment Tax Filing for Small Employers

If the affiliate's annual liability for Social Security, Medicare and withheld federal income taxes is \$1,000 or less, you can file Form 944 annually, rather than the quarterly Form 941's. Your deposits still must be made using EFTPS.

Form W-2, Wage and Tax Statements

A W-2 must be prepared at the end of the year and furnished to each individual who was paid taxable wages (including allowances, lost time, reimbursed union dues or other taxable payments) during the year. Copies are given to the individual, and a copy is forwarded to the IRS.

Form W-3, Transmittal of Income and Tax Statements

This form is used to transmit copies of each W-2 to the Social Security Administration at the end of the year. It must be filed by employers as a transmittal for Form W-2.

Form 940, Employer's Annual Federal Unemployment Tax Return (FUTA)

This form is prepared at the end of the year and a copy is forwarded to the IRS along with a check for the tax due (if applicable) by January 31. Consult the 940 instructions regarding possible quarterly deposits.

State Reporting

Comparable reporting must be made to state authorities of any state taxes withheld.

American Federation of State, County & Municipal Employees
Listing of Localities with Per Diem Rates Exceeding \$68
(within the Continental U.S.)
effective October 1, 2024

FY2025 Per Diem Rates - Effective October 1, 2024			
STATE	DESTINATION	COUNTY/LOCATION DEFINED	FY25 M&IE
	Standard CONUS rate applies to all counties not specifically listed. Cities not listed may be located in a listed county.		\$ 68
AL	Birmingham	Jefferson	\$ 80
AL	Gulf Shores	Baldwin	\$ 74
AL	Huntsville	Madison	\$ 74
AL	Mobile	Mobile	\$ 74
AR	Hot Springs	Garland	\$ 68
AZ	Grand Canyon / Flagstaff	Coconino / Yavapai less the city of Sedona	\$ 80
AZ	Kayenta	Navajo	\$ 74
AZ	Phoenix / Scottsdale	Maricopa	\$ 86
AZ	Sedona	City Limits of Sedona	\$ 92
AZ	Tucson	Pima	\$ 80
CA	Antioch / Brentwood / Concord	Contra Costa	\$ 86
CA	Bakersfield / Ridgecrest	Kern	\$ 74
CA	Barstow / Ontario / Victorville	San Bernardino	\$ 86
CA	Death Valley	Inyo / NAWS China Lake	\$ 80
CA	Eureka / Arcata / McKinleyville	Humboldt	\$ 86
CA	Fresno	Fresno	\$ 86
CA	Los Angeles	Los Angeles / Orange / Ventura / Edwards AFB less the city of Santa Monica	\$ 86
CA	Mammoth Lakes	Mono	\$ 86
CA	Mill Valley / San Rafael / Novato	Marin	\$ 92
CA	Monterey	Monterey	\$ 92
CA	Napa	Napa	\$ 92
CA	Oakhurst	Madera	\$ 80
CA	Oakland	Alameda	\$ 92
CA	Palm Springs	Riverside	\$ 86
CA	Point Arena / Gualala	Mendocino	\$ 86
CA	Sacramento	Sacramento	\$ 86
CA	San Diego	San Diego	\$ 86
CA	San Francisco	San Francisco	\$ 92
CA	San Luis Obispo	San Luis Obispo	\$ 86
CA	San Mateo / Foster City / Belmont	San Mateo	\$ 86
CA	Santa Barbara	Santa Barbara	\$ 92
CA	Santa Cruz	Santa Cruz	\$ 86
CA	Santa Monica	City limits of Santa Monica	\$ 92
CA	Santa Rosa	Sonoma	\$ 86

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CA	South Lake Tahoe	El Dorado	\$ 86
CA	Stockton	San Joaquin	\$ 74
CA	Sunnyvale / Palo Alto / San Jose	Santa Clara	\$ 92
CA	Tahoe City	Placer	\$ 86
CA	Truckee	Nevada	\$ 86
CA	Visalia	Tulare	\$ 80
CA	West Sacramento / Davis	Yolo	\$ 80
CA	Yosemite National Park	Mariposa	\$ 86
CO	Aspen	Pitkin	\$ 92
CO	Boulder / Broomfield	Boulder / Broomfield	\$ 80
CO	Colorado Springs	El Paso	\$ 86
CO	Cortez	Montezuma	\$ 74
CO	Crested Butte / Gunnison	Gunnison	\$ 86
CO	Denver / Aurora	Denver / Adams / Arapahoe / Jefferson	\$ 92
CO	Douglas	Douglas	\$ 80
CO	Durango	La Plata	\$ 80
CO	Fort Collins / Loveland	Larimer	\$ 80
CO	Grand Lake	Grand	\$ 86
CO	Montrose	Montrose	\$ 74
CO	Silverthorne / Breckenridge	Summit	\$ 92
CO	Steamboat Springs	Routt	\$ 92
CO	Telluride	San Miguel	\$ 92
CO	Vail	Eagle	\$ 92
CT	Bridgeport / Danbury	Fairfield	\$ 86
CT	Hartford	Hartford	\$ 80
CT	New Haven	New Haven	\$ 80
CT	New London / Groton	New London	\$ 86
DC	District of Columbia	Washington DC (also the cities of Alexandria, Falls Church and Fairfax, and the counties of Arlington and Farifax in VA; and the counties of Montgomery and Prince Georges in MD	\$ 92
DE	Lewes	Sussex	\$ 74
DE	Wilmington	New Castle	\$ 74
FL	Boca Raton / Delray Beach / Jupiter	Palm Beach / Hendry	\$ 86

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FL	Bradenton	Manatee	\$ 80
FL	Cocoa Beach	Brevard	\$ 74
FL	Daytona Beach	Volusia	\$ 80
FL	Fort Lauderdale	Broward	\$ 86
FL	Fort Myers	Lee	\$ 80
FL	Fort Walton Beach / De Funiak Springs	Okaloosa / Walton	\$ 86
FL	Gulf Breeze	Santa Rosa	\$ 74
FL	Key West	Monroe	\$ 86
FL	Miami	Miami-Dade	\$ 92
FL	Naples	Collier	\$ 80
FL	Orlando	Orange	\$ 80
FL	Panama City	Bay	\$ 80
FL	Pensacola	Escambia	\$ 74
FL	Punta Gorda	Charlotte	\$ 74
FL	Sarasota	Sarasota	\$ 86
FL	Sebring	Highlands	\$ 74
FL	St. Augustine	St. Johns	\$ 80
FL	Stuart	Martin	\$ 80
FL	Tallahassee	Leon	\$ 80
FL	Tampa / St. Petersburg	Pinellas / Hillsborough	\$ 80
FL	Vero Beach	Indian River	\$ 74
GA	Athens	Clarke	\$ 74
GA	Atlanta	Fulton / Dekalb	\$ 86
GA	Augusta	Richmond	\$ 74
GA	Jekyll Island / Brunswick	Glynn	\$ 86
GA	Marietta	Cobb	\$ 74
GA	Savannah	Chatham	\$ 80
IA	Dallas	Dallas	\$ 80
IA	Des Moines	Polk	\$ 80
ID	Boise	Ada	\$ 86
ID	Coeur d'Alene	Kootenai	\$ 74
ID	Sun Valley / Ketchum	Blaine / Elmore	\$ 80
IL	Bolingbrook / Romeoville / Lemont	Will	\$ 74
IL	Chicago	Cook / Lake	\$ 92
IL	East St. Louis / O'Fallon / Fairview	St. Clair	\$ 86
IL	Oak Brook Terrace	DuPage	\$ 80
IN	Bloomington	Monroe	\$ 74

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IN	Indianapolis / Carmel	Marion / Hamilton	\$ 80
IN	Lafayette / West Lafayette	Tippecanoe	\$ 74
KS	Kansas City / Overland Park	Wyandotte / Johnson /	\$ 80
KY	Boone	Boone	\$ 68
KY	Kenton	Kenton	\$ 86
KY	Lexington	Fayette	\$ 80
KY	Louisville	Jefferson	\$ 80
LA	Alexandria / Leesville / Natchitoches	Allen / Jefferson Davis / Natchitoches / Rapides/Vernon Parishes	\$ 68
LA	New Orleans	Orleans / Jefferson Parishes	\$ 80
MA	Andover	Essex	\$ 80
MA	Boston / Cambridge	Suffolk, city of Cambridge	\$ 92
MA	Burlington / Woburn	Middlesex less the city of Cambridge	\$ 86
MA	Falmouth	City limits of Falmouth	\$ 86
MA	Hyannis	Barnstable less the city of	\$ 92
MA	Martha's Vineyard	Dukes	\$ 92
MA	Nantucket	Nantucket	\$ 92
MA	Northampton	Hampshire	\$ 80
MA	Pittsfield	Berkshire	\$ 86
MA	Plymouth / Taunton / New Bedford	Plymouth / Bristol	\$ 80
MA	Quincy	Norfolk	\$ 80
MA	Springfield	Hampden	\$ 74
MA	Worcester	Worcester	\$ 80
MD	Aberdeen / Bel Air / Belcamp	Harford	\$ 74
MD	Annapolis	Anne Arundel	\$ 80
MD	Baltimore City	Baltimore City	\$ 86
MD	Cambridge / St. Michaels	Dorchester / Talbot	\$ 80
MD	Centreville	Queen Anne	\$ 74
MD	Columbia	Howard	\$ 86
MD	Ocean City	Worcester	\$ 80
ME	Bar Harbor / Rockport	Hancock / Knox	\$ 92
ME	Kennebunk / Kittery / Sanford	York	\$ 86
ME	Portland	Cumberland / Sagadahoc	\$ 80
MI	Ann Arbor	Washtenaw	\$ 80
MI	Detroit	Wayne	\$ 74

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MI	Grand Rapids	Kent	\$ 80
MI	Holland	Ottawa	\$ 74
MI	Mackinac Island	Mackinac	\$ 86
MI	Midland	Midland	\$ 74
MI	Muskegon	Muskegon	\$ 68
MI	Petoskey	Emmet	\$ 86
MI	Pontiac / Auburn Hills	Oakland	\$ 80
MI	South Haven	Van Buren	\$ 68
MI	Traverse City	Grand Traverse	\$ 80
MN	Duluth	St. Louis	\$ 86
MN	Minneapolis / St. Paul	Hennepin / Ramsey	\$ 92
MN	Rochester	Olmsted	\$ 80
MO	Kansas City	Jackson / Clay / Cass / Platte	\$ 80
MO	St. Louis	St. Louis / St. Louis City / St. Charles	\$ 86
MS	Oxford	Lafayette	\$ 68
MS	Southaven	Desoto	\$ 68
MS	Starkville	Oktibbeha	\$ 68
MT	Big Sky / West Yellowstone/Gardiner	Gallatin/Park	\$ 80
MT	Helena	Lewis and Clark	\$ 74
MT	Kalispell/Whitefish	Flathead	\$ 80
MT	Missoula	Missoula	\$ 74
NC	Asheville	Buncombe	\$ 80
NC	Atlantic Beach / Morehead City	Carteret	\$ 74
NC	Chapel Hill	Orange	\$ 80
NC	Charlotte	Mecklenburg	\$ 80
NC	Durham	Durham	\$ 74
NC	Fayetteville	Cumberland	\$ 68
NC	Greensboro	Guilford	\$ 74
NC	Kill Devil Hills	Dare	\$ 74
NC	Raleigh	Wake	\$ 74
NC	Wilmington	New Hanover	\$ 74
NE	Omaha	Douglas	\$ 80
NH	Concord	Merrimack	\$ 74
NH	Conway	Carroll	\$ 80
NH	Durham	Strafford	\$ 74
NH	Laconia	Belknap	\$ 74

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NH	Lebanon / Lincoln / West Lebanon	Grafton	\$ 74
NH	Manchester	Hillsborough	\$ 74
NH	Portsmouth	Rockingham	\$ 74
NJ	Cherry Hill / Moorestown	Camden / Burlington	\$ 80
NJ	Eatontown / Freehold	Monmouth	\$ 86
NJ	Edison / Piscataway	Middlesex	\$ 80
NJ	Flemington	Hunterdon	\$ 80
NJ	Newark	Essex / Bergen / Hudson / Passaic	\$ 86
NJ	Parsippany	Morris	\$ 80
NJ	Princeton / Trenton	Mercer	\$ 86
NJ	Somerset	Somerset	\$ 80
NJ	Springfield / Cranford / New Providence	Union	\$ 80
NJ	Toms River	Ocean	\$ 74
NM	Albuquerque	Bernalillo	\$ 80
NM	Carlsbad	Eddy	\$ 74
NM	Santa Fe	Santa Fe	\$ 80
NM	Taos	Taos	\$ 74
NV	Incline Village / Reno / Sparks	Washoe	\$ 80
NV	Las Vegas	Clark	\$ 86
NY	Albany	Albany	\$ 86
NY	Binghamton	Broome	\$ 74
NY	Buffalo	Erie	\$ 80
NY	Floral Park / Garden City / Great Neck	Nassau	\$ 86
NY	Glens Falls	Warren	\$ 86
NY	Ithaca	Tompkins	\$ 80
NY	Kingston	Ulster	\$ 86
NY	Lake Placid	Essex	\$ 86
NY	New York City	Bronx / Kings / New York / Queens / Richmond	\$ 92
NY	Niagara Falls	Niagara	\$ 80
NY	Nyack / Palisades	Rockland	\$ 80
NY	Poughkeepsie	Dutchess	\$ 80
NY	Riverhead / Ronkonkoma / Melville	Suffolk	\$ 86
NY	Rochester	Monroe	\$ 80
NY	Saratoga Springs / Schenectady	Saratoga / Schenectady	\$ 80
NY	Syracuse / Oswego	Onondaga / Oswego	\$ 80
NY	Tarrytown / White Plains / New Rochelle	Westchester	\$ 92

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NY	Troy	Rensselaer	\$ 80
NY	West Point	Orange	\$ 80
OH	Cincinnati	Hamilton / Clermont	\$ 86
OH	Cleveland	Cuyahoga	\$ 80
OH	Columbus	Franklin	\$ 80
OH	Dayton / Fairborn	Greene / Montgomery	\$ 74
OH	Hamilton	Butler / Warren	\$ 74
OH	Sandusky	Erie	\$ 68
OK	Oklahoma City	Oklahoma	\$ 80
OR	Beaverton	Washington	\$ 80
OR	Bend	Deschutes	\$ 86
OR	Clackamas	Clackamas	\$ 80
OR	Eugene / Florence	Lane	\$ 80
OR	Lincoln City	Lincoln	\$ 92
OR	Portland	Multnomah	\$ 86
OR	Seaside	Clatsop	\$ 86
PA	Allentown / Easton / Bethlehem	Lehigh / Northampton	\$ 74
PA	Bucks	Bucks	\$ 80
PA	Chester / Radnor / Essington	Delaware	\$ 80
PA	Gettysburg	Adams	\$ 68
PA	Harrisburg	Dauphin County excluding Hershey	\$ 74
PA	Hershey	Hershey	\$ 80
PA	Lancaster	Lancaster	\$ 74
PA	Malvern / Frazer / Berwyn	Chester	\$ 80
PA	Montgomery	Montgomery	\$ 80
PA	Philadelphia	Philadelphia	\$ 92
PA	Pittsburgh	Allegheny	\$ 80
PA	Reading	Berks	\$ 74
PA	State College	Centre	\$ 74
RI	Jamestown / Middletown / Newport	Newport	\$ 80
RI	Providence / Bristol	Providence / Bristol	\$ 80
SC	Charleston	Charleston / Berkeley / Dorchester	\$ 92
SC	Columbia	Richland / Lexington	\$ 74
SC	Hilton Head	Beaufort	\$ 80
SC	Myrtle Beach	Horry	\$ 74
SD	Deadwood / Spearfish	Lawrence	\$ 80
SD	Hot Springs	Fall River / Custer	\$ 74

American Federation of State, County & Municipal Employees
Listing of Localities with Per Diem Rates Exceeding \$68
(within the Continental U.S.)
effective October 1, 2024

FY2025 Per Diem Rates - Effective October 1, 2024			
STATE	DESTINATION	COUNTY/LOCATION DEFINED	FY25 M&IE
	Standard CONUS rate applies to all counties not specifically listed. Cities not listed may be located in a listed county.		\$ 68
SD	Rapid City	Pennington	\$ 74
TN	Brentwood / Franklin	Williamson	\$ 86
TN	Chattanooga	Hamilton	\$ 74
TN	Knoxville	Knox	\$ 74
TN	Memphis	Shelby	\$ 74
TN	Nashville	Davidson	\$ 86
TX	Arlington / Fort Worth / Grapevine	Tarrant County / City of Grapevine	\$ 80
TX	Austin	Travis	\$ 80
TX	Big Spring	Howard	\$ 68
TX	Dallas	Dallas	\$ 80
TX	Galveston	Galveston	\$ 74
TX	Houston	Montgomery / Fort Bend / Harris	\$ 80
TX	Midland / Odessa	Midland / Andrews / Ector / Martin	\$ 74
TX	Pecos	Reeves	\$ 74
TX	Plano	Collin	\$ 80
TX	San Antonio	Bexar	\$ 74
TX	South Padre Island	Cameron	\$ 74
UT	Moab	Grand	\$ 86
UT	Park City	Summit	\$ 92
UT	Provo	Utah	\$ 74
UT	Salt Lake City	Salt Lake / Tooele	\$ 80
VA	Blacksburg	Montgomery	\$ 68
VA	Charlottesville	City of Charlottesville / Albemarle	\$ 80
VA	Loudoun	Loudoun	\$ 80
VA	Lynchburg	Campbell / Lynchburg City	\$ 68
VA	Richmond	City of Richmond	\$ 80
VA	Roanoke	City limits of Roanoke	\$ 74
VA	Virginia Beach	City of Virginia Beach	\$ 74
VA	Wallops Island	Accomack	\$ 68
VA	Williamsburg / York	James City / York Counties / City of Williamsburg	\$ 80
VT	Burlington	Chittenden	\$ 86
VT	Manchester	Bennington	\$ 86
VT	Montpelier	Washington	\$ 74
VT	Stowe	Lamoille	\$ 86
VT	White River Junction	Windsor	\$ 86
WA	Everett / Lynnwood	Snohomish	\$ 86

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STATE	DESTINATION	COUNTY/LOCATION DEFINED	FY25 M&IE
	Standard CONUS rate applies to all counties not specifically listed. Cities not listed may be located in a listed county.		\$ 68
WA	Ocean Shores	Grays Harbor	\$ 86
WA	Olympia / Tumwater	Thurston	\$ 80
WA	Port Angeles / Port Townsend	Clallam / Jefferson	\$ 92
WA	Richland / Pasco	Benton / Franklin	\$ 86
WA	Seattle	King	\$ 92
WA	Spokane	Spokane	\$ 86
WA	Tacoma	Pierce	\$ 86
WA	Vancouver	Clark / Cowlitz / Skamania	\$ 86
WI	Madison	Dane	\$ 80
WI	Milwaukee	Milwaukee	\$ 80
WI	Sturgeon Bay	Door	\$ 80
WV	Charles Town	Jefferson	\$ 68
WV	Charleston	Kanawha	\$ 68
WY	Cody	Park	\$ 74
WY	Jackson / Pinedale	Teton / Sublette	\$ 92



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June 4, 1992

To: AFSCME Council & Local Union Financial Officers

From: WILLIAM LUCY International Secretary-Treasurer

Subject: TAX TREATMENT OF LOCAL UNION OFFICER ALLOWANCES

As part of our on-going effort to assure that our Local Unions remain in conformance with ever-changing Internal Revenue Service (IRS) rules and regulations, we recently received certain information that may directly affect your Local's handling of certain allowance (and other) payments to officers and members.

Per advice from an outside tax counsel and our own in-house counsel, the IRS, on a recurring basis, is treating allowances paid by unions to their officers as **WAGES SUBJECT TO WITHHOLDING AND REPORTING**. This is consistent with the IRS's treatment of local union officers as "employees" and the payments made to them as "wages."

Attached please find a copy of IRS Letter Ruling 9138036 (publication date September 20, 1991) containing facts which are fairly close to the officer situation which exists in many AFSCME locals. In this letter the IRS concludes that the union officials involved are employees, and that payments to them, including allowances, stipends and lost-time are **WAGES** subject to withholding.

All AFSCME Locals paying monthly allowances, meeting allowances, lost-time, reimbursed dues and other undocumented payments to officers and members must begin treating such payments as WAGES. This requires the establishment of **PAYROLL RECORDS** as outlined in the revised FINANCIAL STANDARDS CODE accompanying this letter.

Please note that reimbursed expenses to officers and members, when supported by receipts and/or other documentation, are neither taxable nor reportable.

WL:ep

June 21, 1991

Dear Sir:

This is in response to the request for a ruling we received to determine the federal employment tax status of the above named workers with regard to services they performed from January 1, 1990 through December 31, 1990 as union officers.

According to the information we received, the workers were elected to serve as president and secretary/treasurer of the union for one year terms. As such, they handled all union business including correspondence, financial matters, and recording of the minutes of union meetings. They were paid a nominal salary of \$35 a month from January through March, and \$75 a month from April through December. The workers did not receive any benefits and the union did not carry worker's compensation insurance on them. In addition, no income tax or social security taxes were withheld from the workers' salaries and they were issued Forms 1099.

Although the workers were not given any training by the union, they were required to perform their services according to the by-laws of the union and according to the voting of the union members. The union retained the right to change the methods used by the workers and to direct them as to how to perform their services. While they were not directly supervised in the performance of their services, the union's books were audited on an annual basis.

All materials used by the workers in the performance of their services were provided by the union and reimbursed the workers for any expenses they incurred including, gasoline, telephone, and postage costs. It was understood that the workers would perform their services personally and they did not have any helpers.

The workers performed their services on a part-time basis, approximately one- half to one hour a day. They were not restricted from performing similar services for others, but they did not. Although the workers retained the right to terminate their relationship with the union at any time, the union did not have the right to discharge the workers. They performed their services under the union's name and did not advertise their availability to perform similar services for others or represent themselves to the public as being in the business to perform such services. The workers did not have a financial investment in a business related to the performance of their services for the union and, accordingly, did not assume the risk of realizing a profit or incurring a loss.

Section 3121(d) (2) of the Internal Revenue Code provides that the term "employee" means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of employee.

The question of whether an individual is an independent contractor or an employee is one of fact to be determined upon consideration of the facts and the application of the law and regulations in a particular case. Guides for determining the existence of that status are found in three substantially similar sections of the Employment Tax Regulations; namely, sections 31.3121(d)-1, 31.3306(i)-1, and 31.3401(c)-1 relating to the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and federal income tax withholding, respectively.

Section 31.3121(d)-1(c) (2) of the regulations provides that generally, the relationship of employer and employee exists when the person for whom the services are performed has the right to control and direct the individual who performs the services not only as to the results to be accomplished by the work, but also as to the details and means by which the result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done, but also as to how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which services are performed; it is

sufficient if he or she has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is the employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished and not as to the means and methods for accomplishing the result, he is an independent contractor.

In determining whether an individual is an employee under the common law rules, twenty factors have been identified as indicating whether sufficient control is present to establish an employer-employee relationship. The twenty factors have been developed based on an examination of cases and rulings considering whether an individual is an employee. The degree of importance of each factor varies depending on the occupation and the factual context in which services are performed. See Rev. Rul. 87-41, 1987-1 C.B. 296.

Consideration must also be given to such factors as the continuity of the relationship and whether or not the individual's services are an integral part of the business of the employer as distinguished from an independent trade or business of the individual himself in which he assumes the risk of realizing a profit or suffering a loss. See *United States v. Silk*, 331 U.S. 704 (1947), 1947-2 C.B. 167 and *Bartels v. Birmingham*, 332 U.S. 126 (1947), 1947-2 C.B. 174.

Section 31.3121(d)-1(a)(3) of the regulations provides that if the relationship of an employer and employee exists, the designation or description of the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, co-adventurer, agent, independent contractor, or the like.

Revenue Ruling 68-539, 1968-2 C.B. 422 concerns union members who performed services as union representatives in negotiations with the company. The union representatives were compensated by the union for lost wages when they were required to take time off from their regular employment to conduct union business. The ruling holds that the union was the employer of the representatives for federal employment tax purposes, and that payments made to them constituted wages for federal employment tax purposes.

Applying the common law to the facts in this case, the fact that the workers are required to perform their services in accordance with the union by-laws and the voting of the union members is a factor indicating control over the workers. Workers who are required to comply with another person's instructions about when, where, and how he or she is to work is ordinarily an employee. The control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions, whether or not they actually exercise that right. See Rev. Rul. 68-598, 1968-2 C.B. 464.

If a worker's services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results. In this case, the workers were required to perform their services personally thus indicating the existence of an employment relationship. See Rev. Rul. 55-695, 1955-2 C.B. 410.

A continuing relationship between a worker and the person or persons for whom the services are performed is another indication of an employer-employee relationship. The fact that the workers were elected to serve one-year terms as union officers indicates that a continuing relationship existed between the union and the workers and, accordingly, that an employment relationship was present. See *United States v. Silk*, 331 U.S. 704 (1947), 1947-2 C.B. 167.

Payment by the hour, week, or month is another factor that generally points to an employer-employee relationship, as opposed to payment on a straight commission basis, which generally indicates that the worker is an independent contractor. The workers in this case were paid on a monthly basis thus indicating that an employment relationship existed. See Rev. Rul. 74-389, 1974-2 C.B. 330.

If the person or persons for whom the services are performed ordinarily pay the worker's business and or traveling expenses, the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities. The workers in this case incurred expenses for telephone calls, gasoline, and postage and were reimbursed by the union again indicating the existence of an employment relationship. See Rev. Rul. 55-144, 1955-1 C.B. 483.

If the person or persons for whom the services are performed furnish tools, materials, and other equipment, that factor tends to show the existence of an employment relationship. In this case, the union provided all materials used by the workers in the performance of their services indicating an employment relationship. See Rev. Rul. 71-524, 1971-2 C.B. 346.

If a worker invests in facilities that are used in performing services and are not typically maintained by employees, that factor tends to indicate that the worker is an independent contractor. On the other hand, a lack of investment in facilities tends to indicate dependence upon the person or persons for whom the services are performed for such facilities and, accordingly, the existence of an employer-employee relationship. In this case the workers did not have a financial investment in facilities and, accordingly, an employment relationship is indicated. See Rev. Rul. 71-524. In connection, a worker who can realize a profit or incur a loss as a result of his or her services is generally an independent contractor, while the worker who cannot, is an employee. Because the workers in this case did not have a financial investment in facilities related to the performance of their services for the union, they could not incur a loss or realize a profit, indicating an employment relationship. See Rev. Rul. 70-309, 1970-1 C.B. 199.

The right of a worker to terminate his or her relationship with the person or persons for whom the services are performed at any time without incurring a liability, that factor indicates that an employer-employee relationship is present. In this case, because the workers were free to terminate their relationship with the union at any time, an employment relationship is indicated. See Rev. Rul. 70-309.

Accordingly, applying the law, regulations, and principles set forth in the revenue rulings, in particular, Rev. Rul. 68-539, we conclude that the worker was an employee of the firm for purposes of the FICA, the FUTA, and federal income tax withholding.

This ruling applies to all workers who perform similar services under similar circumstances for the firm. It is directed only to the taxpayer to whom it is addressed. Under section 6110(j)(3) of the Code this ruling may not be used or cited as precedent.

A copy of this ruling is being forwarded to the District Director's office in * * *.

Sincerely,

James J. McGovern
Assistant Chief Counsel
By: Ronald L. Moore
Technical Assistant
Office of the Assistant Chief Counsel
(Employee Benefits and Exempt Organizations)

PLR 9138036, 1991 WL 778107 (IRS PLR)
Copr. (C) West 2004 No Claim to Orig. U.S. Govt. Works

PLR 9138036 ()