

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/stipend of \$50.00.	√	
Affiliate Treasurer Jane Brown is paid mileage (300 miles at 58.5 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 workshop.	√	
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.**
- **Remit these payroll taxes on a timely basis to the IRS and state agencies as required**
- **File the appropriate monthly, quarterly or annual payroll tax reports with both the IRS and state.**
- **Inform the individual and IRS of the amount of payroll 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 detailed receipts and an explanation of union business purpose attached to the expense report 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 detailed receipt and explanation of union business purpose is provided for each item to be reimbursed.

The officer or member should generally 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 58.5 cents per mile (2022 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, such as 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 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 daily per diem paid, 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 rate indicated.

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 detailed receipts attached) and an explanation of union business purpose 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. In such instances, the union MAY authorize payments for wages actually lost. These payments require authorization/approval by the executive board and/or membership.

If the affiliate makes payments to 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.

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.

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. The policy should indicate the purpose of each allowance/stipend and the type of costs it is intended to cover should be specifically defined. 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. Reimbursed dues are intended to compensate officers, executive board members and stewards for union related services. As a form of compensation, they are considered to be taxable payments by the IRS.

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 (e.g., 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. A listing of the various reports is detailed in this section.

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.