ACCOUNTABLE PLAN COMPLIANCE

Expense Reimbursements and Allowances

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- Involves payments to:
  - ✓ Employees
  - ✓ Volunteers
  - ✓ Independent contractors*

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--Expense Reimbursements and Allowances--

- Rule of thumb - payments to employees and other service providers are *taxable* unless:
  - ✓ Excluded under the Fringe Benefit Exclusion rules (IRS Publication 15-B),

    -or-

  - ✓ Paid under an Accountable Plan

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- To qualify as an *Accountable Plan*, the IRS requires three things:
  1. Expenses must have a business connection
  2. Must adequately account for these expenses within a reasonable period of time
  3. Must <u>return any excess reimbursement or allowance/advance within a reasonable period of time</u>

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- To qualify as an *Accountable Plan*, the IRS requires three things:

  1. Business connection – deductible by the employee/volunteer

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- To qualify as an *Accountable Plan*, the IRS requires three things:

  2. Adequately account for expenses

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- To qualify as an *Accountable Plan*, the IRS requires three things:

2. Within a reasonable period of time
   - ✓ Depends on facts and circumstances but the IRS will accept a “30/60/120 day” plan

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- Reasonable period of time means:
  - ✓ 30 - Advance is received within 30 days of the time the employee has an expense
  - ✓ 60 - Expense is adequately accounted for within 60 days of being paid or incurred (by employee/volunteer)
  - ✓ 120 - **Excess reimbursement is returned** to you within 120 days after when the expense was paid or incurred (by the employee/volunteer)
  - ✓ 120 - You provide the employee/volunteer with (at least) a quarterly statement asking him or her to either return or adequately account for outstanding advances and he or she complies within 120 days of the statement date

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- To qualify as an *Accountable Plan*, the IRS requires three things:

Finally – The Big Rock

3. Excess reimbursement or allowance/advance returned within a reasonable period of time

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- It looks like our council meets the requirements – what does that mean?
  - ✓ It means that reimbursements/ allowances/advances paid to employees and volunteers are not includable in income in their Forms W-2/1099

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- It looks like our council does not meet the requirements – what then?
  - ✓ It means that you have a *Nonaccountable Plan* and reimbursements/ allowances/advances paid to employees and volunteers **are includable in income in their Forms W-2 or 1099**

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- We meet all the requirements except the getting paid back part……
  - ✓ Then the "excess reimbursement" becomes compensation to the employee/volunteer and is **includable in income on Form W-2 or 1099**

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- We just leave the “excess” paid to employees and volunteers “between them and the IRS”.

“Houston, we have a problem…….”

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- The "excess reimbursement" becomes an *automatic excess benefit transaction*
- Intermediate sanctions
- Excise taxes
- Form 4720
- Unpaid payroll taxes and penalties
- Could jeopardize exempt status

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- What else could go wrong?
- IRS audits are focusing on taxable fringe benefits and similar payments:
  - ✓ The IRS is in the middle of a three-year employment tax compliance initiative and has stated very clearly that it is paying "significant attention" to executive fringe benefit programs.

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- Does an Accountable Plan have to be in writing?
  - ✓ The IRS doesn't currently require a written "plan" but the BSA recommends it. We are currently working on drafting a sample plan document for local councils and will post it on the FID website soon.

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- Valuable reference materials:
  - ✓ Publication 463, *Travel, Entertainment, Gift, and Car Expenses*
  - ✓ Pub. 4221 pc, *Compliance Guide for 501(c)(3) Public Charities*
  - ✓ Publication 15-B, *Employer's Tax Guide to Fringe Benefits*
  - ✓ Publication 15-A, *Employer's Supplemental Tax Guide*
  - ✓ All available at http://www.irs.gov
  - ✓ FID website http//scouting.org/financeimpact

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Thank You!

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