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### Give Employees Guns For Christmas? Get Tax Bill

Especially in these highly charged times, guns are not the most universal of gifts. But one company this holiday season has given guns to its staff, prompting some mixed reactions. The owners of a novelty glassware company gave employees pistols and rifles, a “unique and memorable” Christmas present. A [Wisconsin boss gave his entire staff guns for Christmas](#). Bruce and Ben Wolfgram are father-and-son owners of [Benshot](#), a Wisconsin-based company selling drinking glasses embedded with bullets. Sixteen employees got the gifts. “Our main motivator was personal safety and protection, but we live in a local hunting community so we already know how people feel about weapons,” Ben, 35, told Yahoo Lifestyle. “We also know our employees and their families well, so there’s lots of trust here.”

The mechanics involved a [collective \\$8,000](#) in gift cards to gun stores. Employees had to undergo a gun-safety course at work. Given the \$500 per employee, the taxes are worth considering. Aren’t gifts tax-free? Not always, and distinguishing between income and gifts can be tough. If gifts are made out of “detached and disinterested” generosity, they aren’t taxable. But gifts to employees beyond small amounts are usually viewed as compensation by the IRS. Any individual can give gifts to another and avoid *gift* tax as long as the gifts are no more than \$15,000 a year. And if they’re *really* gifts, there is no income tax either. Still, get used to thinking that taxes apply everywhere. If you win the lottery or hit it big at the casino, you pay tax. If you win goods instead of cash, their value is income. When Pontiac gave away cars on Oprah, the recipients were on the hook for [taxes](#) even though they didn’t receive cash.



For employees, the IRS considers certain gifts or benefits too small to tax, so called de minimis benefits, including such things as:

- Controlled, occasional employee use of photocopier
- Occasional snacks, coffee, doughnuts, etc.
- Occasional tickets for entertainment events
- Holiday gifts
- Occasional meal money or transportation expense for working overtime
- Group-term life insurance for employee spouse or dependent with face value not more than \$2,000
- Flowers, fruit, books, etc., provided under special circumstances
- Personal use of a cell phone provided by an employer primarily for business purposes

But not all holiday gifts are tax free. Whether an item or service is de minimis depends on all the facts and circumstances. Notably, if a benefit is too large to be considered de minimis, the entire value of the benefit is taxable to the employee, not just the excess over a designated de minimis amount. If your employer gives you a turkey, ham, or other item of nominal value at Christmas or other holidays, don't include the value of the gift in your income. However, if your employer gives you cash, a gift certificate, or a similar item that you can

easily exchange for cash, you must include the value of that gift as extra salary or wages regardless of the amount involved.

If something is taxable, the employer must withhold extra taxes from the employee's cash pay to make up for any property given in kind. Can't you claim it was a gift? A briefcase or a country club membership from your boss is not made from "detached and disinterested generosity." Instead, it is meant to reward you for a job well done, and to help secure your services in the future. It is worth checking out [the IRS rules for what constitutes a de minimis fringe benefit](#).

If employee works unpaid overtime and you reward him with tickets to the Super Bowl, they are wages. You're supposed to increase the withholding on his cash wages to cover the value of the tickets. But that works only if you pay with a combination of cash and goods. If a buddy who isn't a regular employee helps out at your business occasionally and you thank him with tickets? The IRS says to report them as pay on [Form 1099](#). The IRS likes those forms, and increasingly relies on information matching. And that's one reason why [mistakes with Form 1099 can cost big](#).

*This is not legal advice. For tax alerts or tax advice, email me at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com).*