

GEORGETOWN UNIVERSITY



FINANCIAL AFFAIRS MANUAL

Issuing Department Financial Affairs	Topic: Tax Treatment of Subsidized University Housing For Offices, Faculty and Staff members	Policy # 1016 FA 169-08	
New	Revised: January 1, 2008	Supersedes Policy #	Effective Date: April 15, 1997

1016.0 POLICY: Tax Treatment of Subsidized University Housing for Officers, Faculty and Staff members

1016.1 STATEMENT: Under the Internal Revenue Code, the value of employer- provided housing is generally treated as income, meaning that it is taxable to the employee who receives the benefit. There are certain, narrowly defined circumstances under which the value of employer-provided housing can legally be excluded from income. Under the Internal Revenue Code and applicable Treasury Regulations, an exclusion is warranted under either of two circumstances: when lodging is provided under circumstances that satisfy the “nontaxable lodging” provisions in Section 119 (a) of the Code and Section 1.119-1 of the Treasury Regulations; or when lodging is provide under circumstances that satisfy the “qualified campus lodging” provisions in Section 119(d) if the Code.

1016.2 APPLICABILITY: This policy applies to current Georgetown University Officers, faculty and staff employees.

1016.3 PURPOSE: The purpose of this policy is:

- To ensure that the tax laws are observed with respect to all arrangements concerning the provision of University-subsidized housing to offices, faculty and staff members.
- To ensure that the Payroll Department is appropriately apprised of tax-consequential arrangement involving the provision of University-subsidized housing.
- To provide guidance to University campuses, schools, departments, and operation units concerning the meaning of applicable statutes and regulations and the nature of the substantiation requirements necessary to support the exclusion from taxable income of the value of University-subsidized housing.

1016.4 ADMINISTRATION AND IMPLEMENTATION: NON TAXABLE LODGING

Definition

Under Section 119(a) of the Code and Section 1.119-1 of the Treasury Regulations, the value of housing provided by the University is excludable from an employee's gross income if all of the following three criteria are satisfied:

- Housing must be furnished for the convenience of the University.
- The housing must be on the University campus. An employee who occupies University-owned housing near or adjacent to campus will not qualify for a tax exclusion under the "nontaxable lodging" provisions in the Code (although that employee may qualify under the "qualified campus lodging" provision described below): housing must be within the campus boundaries (as defined below) to satisfy this criterion.
- The employee must be required to live in University-owned housing as a condition of employment. Embellishing on this standard the Treasury Regulations specify that the "condition of employment" criterion is satisfied only when on-campus housing is necessary to enable the employee properly to perform his or her job-related duties as, for example, when the employee is required to be on call 24 hours a day.

Under ordinary circumstances, this three-part test will be difficult for the employee to satisfy. The Internal Revenue Services has taken a conservative approach to the "convenience of the employer" and "condition of employment" criteria. University officials are discouraged from entering into agreements with employees under which the "nontaxable lodging" provision in the Code and implementing regulations are relied upon as a justification for the exclusion of housing benefits from taxable income.

Substantiation

Except in unusual circumstances, the Payroll Department will not exclude the value of University-subsidized housing under the "nontaxable lodging" provision in the code and implement regulations unless the following substantiation requirements are satisfied:

- The residence must be within the University's campus boundaries, as that term is defined on page 11 of the Bicentennial Master Plan.
- The written agreement must contain language indicating specifically that (i) the on-campus residence is provided for

the convenience of Georgetown University, and (ii) the employee must accept housing on campus as a condition of employment for job-related reasons that are explained in the written agreement. Standard-form language acceptable to the Payroll Department is appended to this policy as Attachment A (WordPerfect Format) or Attachment A (PDF Format).

- The employee must keep a log, notebook, or other form of contemporaneous written record showing, for each instance in which the residence is used for the discharge of job-related obligations, (i) the date and time, (ii) the nature of the meeting or function held at home or the telephone call received at home, (iii) the duration of the meeting, function, or call, (iv) in the case of a meeting or function, the number of people involved and the name of each person (if easily recordable), and (v) any other information supporting the job-related nature of the meeting, function, or call. The log should be forwarded to the Payroll Department on or before January 10th of each year. A sample log is appended to this policy as Attachment B (WordPerfect Format) or Attachment B (PDF Format).

Qualified Campus Lodging

Under Section 119(d) of the Code, the so-called “safe harbor” provision provided to educational institutions, an employee avoids tax liability if the annual rent he or she pays for University-owned housing is at least five percent of the appraised value of the residence he or she occupies. If the annual rent is less than five percent of the appraised value, then the difference must be reported to the IRS as taxable income.

An employee is eligible for the “qualified campus lodging” exclusion if the housing satisfies two criteria:

- It is located on, or in the proximity of, either of the University’s campuses (the Main Medical complex in the Georgetown part of the city, or the Law Center campus near Capital Hill). Ordinarily, the Payroll Department will deem the “proximity” requirement to be satisfied if the employee certifies that the housing is located no more than five minutes by automobile from the University campus, which is the employee’s principal place of employment.
- It is furnished to the employee and the employee’s family for use as a residence. The Payroll Department will adjudge this criterion to be satisfied if the employment agreement or other pertinent documentation recites that housing is furnished to the employee and family for use as a residence. Standard-form language acceptable to the

Payroll Department is appended to this policy as Attachment C (WordPerfect Format) or Attachment C (PDF Format).

General Implementing Rules

Except in unusual circumstances, the term of a lease for University-owned housing should be coextensive with the term of employment a specific University job and should terminate no later than sixty days following cessation of that job.

Rent payments shall be made through payroll deduction.

The Treasurer shall authorize appraisals of all University-owned housing on a periodic basis, with the expectation that each University-owned residential property will be reappraised at least once every three years.

1016.5 RESPONSIBILITIES: All University employees must follow the procedures outlined above.

1016.6 ENFORCEMENT and ACCOUNTABILITY: The policy is enforced by the campuses' Chief Financial Officers and Internal Audit. Additional reviews may be conducted by the University's financial auditors, A-133 auditors, or agency specific auditors. Each campus Chief Financial Officer shall report annually to the Senior Vice President, CFO and Treasurer on efforts undertaken by the CFO to ensure this policy's implementation

1016.7 RESOURCES: Contact the University Payroll Department if you have any questions about this policy or if you would like more information.

ATTACHMENT A Standard-Form Provision for Non-taxable Lodging

ATTACHMENT B Subsidized University Housing Business Activity Log

ATTACHMENT C Standard-Form Provision for Qualified Campus Lodging

1016.8 APPROVAL: Any agreement (in the form of a contract of employment, lease or the equivalent) that contains a provision affecting or designed to affect the tax treatment of housing benefits must be shown to and discussed with the Payroll Department prior to the execution of the agreement.

The only University officials who are authorized to make decisions, other University officials should refrain from making promises or representations, orally or in writing without first consulting with the Treasurer, or their designated representative. To the extent that any contract of employment contains promises or representations concerning the tax treatment of housing benefits, the University will not be under any obligation to honor such promises or representations unless they are approved in advance by the Treasurer and their designated representative .

1016.9 REVIEW CYCLE: The policy is reviewed annually by the Tax Office and Payroll Department.