

UNIVERSITY TAX SERVICES

STANDARD OPERATING PROCEDURE

TSOP NO:	3.08
SUBJECT:	Free or Discounted Housing Provided by IU
SOURCE:	University Tax Services
ORIGINAL DATE OF ISSUE:	3/1/2019 (IJ)
DATE OF LAST REVISION:	3/14/19 (CA), 4/8/19[samn]
RATIONALE:	<p>The purpose of this Tax Standard Operating Procedure [TSOP] is to provide IU units with guidance regarding free or discounted lodging given to employees, students or any other individuals who have an affiliation with IU, either on or off campus. The taxability of these benefits varies depending on whether certain conditions are met. In general, free or discounted housing that is not primarily for IU business purpose, like other fringe benefits, is included in taxable income to the individual.</p> <p>If the lodging is provided under conditions that meet the “excludable lodging” provisions in Section 119(a) of the Internal Revenue Code (the Code) and Section 1.119-1 of the Treasury Regulations, then it can be excluded from taxable income. If the lodging does not meet these conditions, it could still be exempted from taxable income if the circumstances satisfy the “qualified campus lodging” provisions in Section 119(d) of the Code. See further details below.</p> <p>Please note it is the responsibility of the unit/department to be familiar with the issues discussed in this TSOP when providing free or reduced housing and the department is accountable in the case of an IRS audit for ensuring sufficient documentation is in place.</p>
PROCESSING INSTRUCTIONS:	<ol style="list-style-type: none">1. Read the appropriate section below based on your situation (Student, Employee or Other) and determine whether or not a taxable event has occurred. If it is still unclear whether the instance is taxable, the scenario should be described via email and sent to taxpayer@iu.edu for review and discussion.2. If you determine that the situation is not excludable from taxation [thus taxable to the individual] based on the guidance provided below, please send an email to taxpayer@iu.edu describing the situation and the Tax group will assist on next steps. As a best practice, Tax recommends that a description of the free housing provided is documented along with the justification as to why the housing is considered taxable.3. If you determine the situation is excludable from taxation based on the guidance provided below, please document and keep on file within your unit/department in the case of an IRS audit [for a

minimum of 4 years]. As a best practice, Tax recommends that a description of the free housing provided is documented along with the justification as to why the housing is not considered taxable.

IF THE RECIPIENT OF THE FREE OR DISCOUNTED IS A(N):

STUDENT

If the housing is being provided to a student, units should review the [Indiana University Student Payment Guidelines](#) to ensure no breach in policy will occur. These guidelines provide more details on how to make the payments. This document can also help units determine the potential impact on the student employee's financial aid.

According to the Compensation for Services section, it is not appropriate to use nonmonetary forms of compensation (such as a free trip, tangible item, campus housing or meals) in lieu of hiring a student for services performed for the university. Additionally, [USSS-09](#), a University-wide policy document on reduced room and board for student employees should be reviewed to ensure no guidelines are violated.

Please see the Examples below and contact taxpayer@iu.edu with any questions on your specific instance.

EMPLOYEE

In general, free or discounted housing provided to an employee will be considered taxable income unless a specific exclusion applies. The flowchart below provides a summary of the regulations and the relevant decision process regarding the two main exclusions. Please see the Examples section below also and contact taxpayer@iu.edu with any questions on your specific instance.

DISCUSSION:

The Internal Revenue Code and applicable Treasury Regulations allow the exclusion of lodging from taxable income under three different circumstances:

1. When lodging is provided under circumstances that satisfy the "excludable lodging" provisions in [Section 119\(a\)](#) of the Code and [Section 1.119-1](#) of the Treasury Regulations; or
2. When lodging is provided under circumstances that satisfy the "qualified campus lodging" provisions in [Section 119\(d\)](#) of the Code.
3. When lodging is provided for temporary work assignments.

§119(A) AND §1.119-1

In order to meet the first exclusion, **all three** of the following requirements must be met:

- The housing is on the business premise of the university (in-kind)
 - The employee's lodging should be a place where the employee performs a significant portion of their duties.
 - The living quarters should constitute an integral part of the University's property.
 - The housing should be on the premises where the University carries on some substantial segment of its business activities.
- The housing is furnished for the convenience of the university
 - There must be a direct relationship between the housing being furnished to the employee and the business interests of the University.
 - The lodging must be essential to the employee carrying out their job duties.
- The employee is required to accept such housing as a condition of employment
 - The employee must be required to accept the lodging as a condition of employment.

- The acceptance of the housing must be essential to the employee performing their duties of employment.

Only if all three of these requirements are met, then the housing can be excluded from taxable income. If these requirements are **not** met, the exclusion under Section [119\(d\)](#) of the Code can be tested as follows.

§119(D)

This exclusion states that, in general, gross income of university employees shall not include the value of *qualified campus lodging* furnished to such employee during the taxable year. However, when the employee pays “inadequate rent” for this lodging, the remaining portion of the value of the housing is considered taxable income.

The amount that must be reported as taxable income, if any, is calculated by subtracting the amount of rent paid from the lesser of:

- (i) 5% of the appraised value of the housing per year (divide by 12 for the monthly rate), or
- (ii) The average rent paid by individuals for similar housing provided by the institution.

TEMPORARY JOB ASSIGNMENTS

If an employee is temporarily relocated, employer provided housing is not taxable to the employee. In order to be excluded from taxable income, the following conditions must be met:

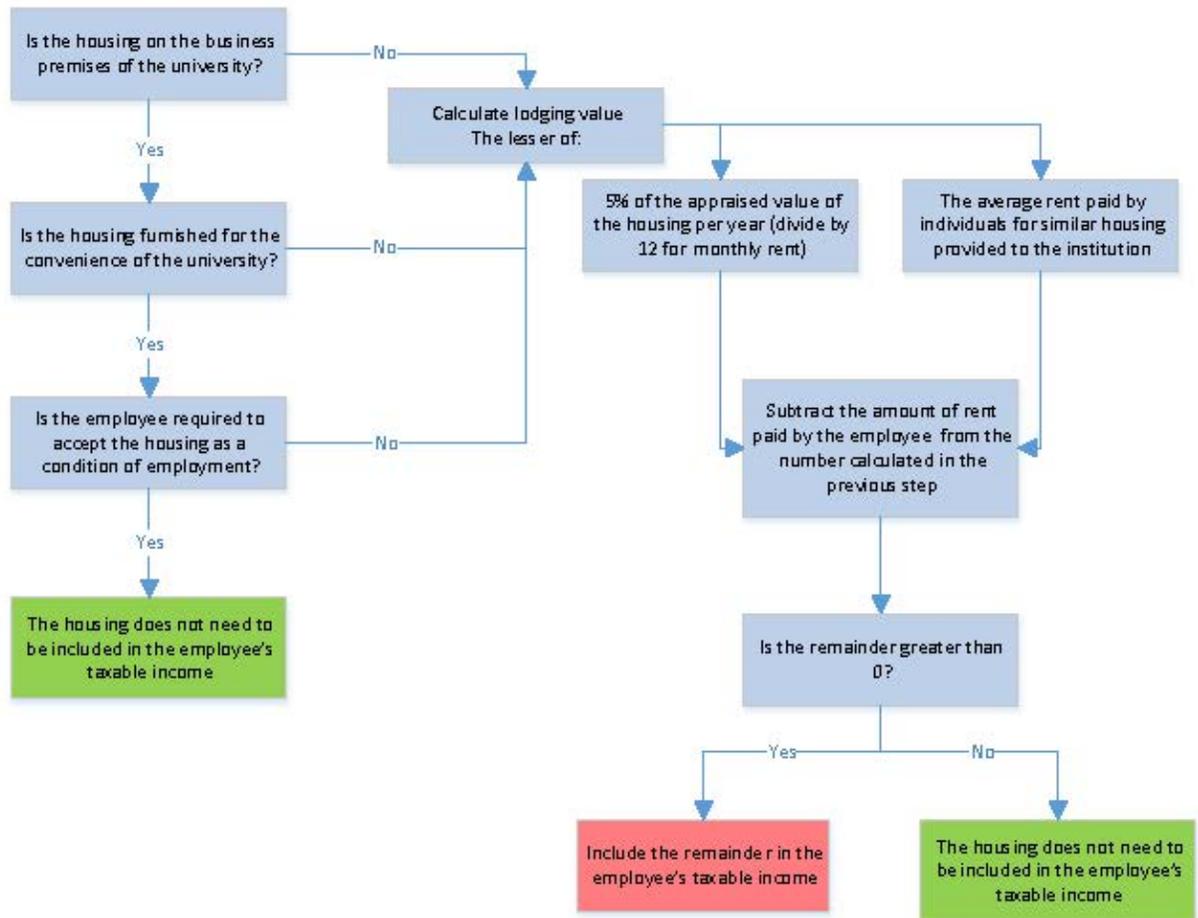
- The employee must be travelling away from their regular place of business. The regular place of business can encompass the entire city or metropolitan area where the business is located.
- The assignment must be expected to last one year or less.

VALUATION

If none of these exclusions are met, the fair rental value of the housing must be recorded as income taxable to the employee. This means the average rent paid by individuals for similar housing provided by the institution. Generally, this will be added to payroll as a noncash fringe benefit or as supplemental pay.

SEE NEXT PAGE FOR FLOWCHART

FLOWCHART FOR EMPLOYER PROVIDED HOUSING:



INDIVIDUALS WITH IU AFFILIATION:

Similar to employees and students, free or reduced housing provided to an individual with an affiliation to IU should also be evaluated for taxability. For these instances, units & departments should be familiar with IU policy [FIN-ACC-I-620 Reimbursement Under the Accountable Plan](#) and [TSOP 9.02 Accountable Plan Reimbursements](#) which discuss the need for expenses incurred by the university to have a **primary business** purpose in order to **not** be considered taxable, reportable income. If the housing is provided in lieu of monetary compensation or as a benefit to the individual, it will likely not meet the exclusion for taxability.

Please see the examples below and contact taxpayer@iu.edu with any questions on your specific instance.

SCENARIO SET 1: STUDENTS & STUDENT EMPLOYEES

EXAMPLES:

These scenarios pertain to students performing various jobs for the university and receiving free or reduced-price housing in exchange. Under this scenario, a determination should be made first to determine if the payments are in accordance with the student payment guidelines. Next, the applicable exclusions should be tested to see if the value of the housing should be included in the employee's taxable income or not.

EXAMPLES:



Resident Assistants at Indiana University are given the choice of a \$5,000 housing stipend or a free single dorm room for each year of service. Living in the dorms helps the Resident Assistants complete their job duties, as it is important that they are on call late into the night. However, since they are not required to reside in the employer provided housing, the fair value of the housing would not be excludable from taxable income, even if they choose to accept the dorm room instead of the stipend. Since the employee is paying no rent, section 119(d) is not applicable.



Indiana University has a group of students who will be helping with mold remediation and cleaning efforts. In exchange for the students' work, the University decides to compensate them with free on-campus housing for one semester. The employees are required to accept this housing as a condition of employment. This would violate the student payment guidelines if the students are not hired as employees. If the students are hired as employees, the fair value of the housing must still be included in taxable income. Living on campus is not essential to the students completing their job duties, so both the convenience of the university and condition of employment tests are failed. Since the employee is paying no rent, section 119(d) is not applicable.



A student employee at Indiana University is provided with discounted campus housing in exchange for working at a dining hall. The student is only required to pay \$400 per month, while the fair value of the rent is \$600 per month. The employee is not required to live in the housing and living on campus not necessary to complete their job duties. The University would have to include $\$600 - \$400 = \$200$ per month in the employee's taxable income, per Section 119(d).



Resident Assistants at Indiana University are compensated with free dorm housing for the year that they are employed. Accepting the housing is a condition of employment, and living in the residence halls is essential for the RAs to carry out their job duties. The residence halls help the University carry out their business purposes of housing and educating students. The housing can be excluded from the employee's taxable income.

SCENARIO 2: EMPLOYEES - PROFESSORS, STAFF, & FACULTY

These scenarios pertain to various staff, faculty, and professors being provided housing or lodging by the university [being paid directly or indirectly]. The applicable exclusions should be tested to see if the fair value of the housing should be included in taxable income. If none of the exclusions are met, the fair rental value of the housing should be included in taxable income. There are no regulation-specific differences between student employees and professors, staff, & faculty regarding this issue.

EXAMPLES:



A campus chancellor lives in a home owned by Indiana University. The chancellor is expected to hold alumni events, fundraising dinners, and other university events at the home, and is **required** to live in the home as a condition of employment. While the house is a few miles off campus, it could still qualify as being on the university's premises, as the living quarters constitute an integral part of the university's business property. Additionally, the university carries on a substantial segment of its business activities at the home and the

chancellor performs a significant portion of his job duties at the home. These conditions are met because the house is regularly used for university functions. **Records** should be kept to track the business activities at the home. The fair rental value of the housing does not need to be included in the chancellor's taxable income.



The same facts remain as above, except the chancellor is not required to live in the university-owned home. Additionally, the chancellor pays \$600 per month in rent to the University. The condition of employment test is not met, so Section 119(d) is applicable. The house has an appraised value of \$192,000, and a fair rental value of \$700 per month. The lesser of \$700 and $(192,000 * 5\%) / 12 = \$800$ is **\$700**. The difference between the rent paid and the fair rental value of **\$100 per month** must be recognized as taxable income.



A groundskeeper at the Indiana University golf course is provided housing in a University-owned building adjacent to the course. The groundskeeper is required to reside in the building as a condition of employment. The groundskeeper needs to be on call 24 hours a day in case there is an emergency on the course. Additionally, the groundskeeper has to perform maintenance throughout the early morning and late evening hours when the course is closed. The fair rental value of the housing does not need to be included in the groundskeeper's taxable income.



A professor based out of IUPUI is temporarily relocated to the Bloomington campus to teach for one semester. Bloomington is outside of the professor's regular place of business in Indianapolis, and the assignment is expected to last for four months. The University provides on-campus housing for the professor during his stay. The fair rental value of the housing would not need to be included in the professor's taxable income.



A professor is provided with on-campus housing as a part of his compensation package. The professor is required to accept the on-campus housing as a condition of employment, and the housing is on the University's premises. However, since living on campus is not essential to the professor performing his job duties, the fair rental value must be included in his taxable income.

SCENARIO 3: OTHER INDIVIDUALS WITH IU AFFILIATION

The following scenarios apply to other individuals with an affiliation to Indiana University that receive free or discounted housing. Units should first ensure that all applicable **accountable plan** guidance is followed before determining whether the housing benefit is taxable to the employee. If any of the accountable plan policies indicate that the payment is taxable, the fair rental value of the housing should be included in the individual's taxable income. Units must be aware that foreign nationals may have a mandatory withholding. Please refer to [this](#) page and contact University Tax Services at taxpayer@iu.edu for additional assistance.

EXAMPLES



After a large fire in an Indiana University building, an insurance adjuster travels to Indiana University for a week to inspect the damages and help with the claims process. During the adjuster's stay, Indiana University offered him the option to stay in either a hotel or in campus housing (for convenience). If the adjuster chooses to stay on campus, this would be taxable to the adjuster. The adjuster must pay for the housing

themselves to avoid the tax liability. Depending on the facts and circumstances, the accountable plan could potentially be met and a primary benefit to IU could be argued allowing the exemption of this lodging.



A visitor is being engaged to lead a guest lecture at Indiana University on a Friday. They travel from out of town and arrive Thursday evening. The visiting lecturer would like to stay in Bloomington for leisure over the weekend as well. Indiana University agrees to provide housing for the visiting lecturer on Thursday and Friday night. This lodging would not be taxable to the visiting lecturer. However, if Indiana University also provides lodging over the weekend for the visitor's leisure, this portion of the lodging would be taxable to the visiting lecturer. Depending on the facts and circumstances, the accountable plan could potentially be met and a primary benefit to IU could be argued allowing the exemption of this lodging.



A non-employee is temporarily visiting Indiana University to perform research. They are not being paid by the University and are not a student. The University offers to provide housing during the period of research. The value of this housing would be taxable to the visiting researcher. If this researcher was visiting from another country, either a 30% withholding or applicable tax treaty must be applied. Depending on the facts and circumstances, the accountable plan could potentially be met and a primary benefit to IU could be argued allowing the exemption of this lodging.



An Indiana University student suffers a life-threatening injury or passes away during their enrollment. As a gesture of good faith, Indiana University offers to house the parents of the student on campus while they get the student's affairs in order or visit the student in the hospital. A department can approve to cover the costs associated with the housing and taxes and donate it to the parents as a gift. In this scenario, the parents would not be liable for any tax on the housing. Even if this was not donated by a specific department, the accountable plan could potentially be met and a primary benefit to IU could be argued allowing the exemption of this lodging.

LEGEND:

		
Not Excludable	Partially Excludable	Fully Excludable

DEFINITIONS:

Fair Rental Value: The average rent paid by individuals for similar housing provided by the institution. All facts and circumstances, such as included furnishings, should be taken into consideration.

Fringe Benefits: Extra benefits supplementing an employee's salary, such as car service, subsidized meals, gym memberships, etc.

	<p>Qualified Campus Lodging (in reference to §119(d)): Lodging where §119(a) does not apply, which is located on, or in the proximity of, a campus of the educational institution, and which is furnished to the employee, their spouse, and any dependents by or on behalf of such institution for use as a residence.</p> <p>Inadequate Rent (in reference to §119(d)): When the paid rent amount is smaller than the lesser of 5% of the appraised value of the housing per year (divided by 12 for monthly), or the average rent paid by individuals for similar housing provided by the institution.</p> <p>Temporary Job Assignment: The employee must be travelling away from their regular place of business for an expected period of one year or less.</p> <p>Accountable Plan Primary Benefit: Clarifies that the <i>primary benefit</i> must be to Indiana University to qualify as exempt. However, this does not mean that mutual benefit cannot exist. There will often be some degree of mutual benefit, but the fact that the <i>primary benefit</i> is to Indiana University is what matters most.</p>
<p>CROSS REFERENCES:</p>	<p>IRC 119</p> <p>Treasury Regulation 1.119-1</p> <p>USSS-09 - Reduced Room and Board for Student Employees</p> <p>IU Student Payment Guidelines</p> <p>FIN-ACC-I-620 Reimbursement Under the Accountable Plan</p> <p>TSOP 9.02 Accountable Plan Reimbursements</p>