

Suggested Solutions to Problems in Syllabus Unit 6

Problem 2.10. Sure, it's excludible! But not because it's a scholarship. It's a gift.

Problem 2.11. Proposed Regulation § 1.117-6(d)(3) indicates that part of this award (probably \$5,000) should be treated as payment for teaching. Under IRC § 117(c), that's gross income. The rest is likely a qualified scholarship, excluded from gross income.

Problem 2.12. The credit is governed by IRC § 25A(i), since it covers undergraduate studies (*see* IRC § 25A(b)(2), as amended by IRC § 25A(i)(2)) and the taxable year is after 2008. Therefore, the credit is 100 percent of the first \$2,000 of tuition, plus 25 percent of the next \$2,000, for a total credit of \$2,500.

Problem 2.13. The answer is the same as the answer to Problem 2.12. At one time, it would have been better for the taxpayers to elect the lifetime learning credit in this situation. That is no longer the case.

Problem 2.14. Here, the total credit would be \$5,000. The dollar limits for the American Opportunity Credit are calculated per student, not per taxpayer. There is no change in the third year – the credit now covers four years of college. *See* IRC § 25A(i)(2).

Problem 2.15. The ticket is not a no-additional-cost service, because it costs the employer substantial forgone revenue. But it is a qualified employee discount, excluded up to the 20 percent of the retail price. And so \$100 is excluded from gross income; \$400 is included in gross income.

Problem 2.16. An example in the regulations states that this benefit is fully taxable, despite the empty seats. *See* Reg. § 1.132-2(c).

Problem 2.17. Yes, she can exclude the value of the flight from her gross income. It's the classic no-additional-cost service. The regulations say she can even exclude the value of the meal. *See* Reg. § 1.132-2(a)(5)(ii).

Problem 2.18. Family members can take advantage of the exclusion. *See* IRC § 132(h), and particularly, for airline employees, IRC § 132(h)(3). Note that if anyone were taxable, it would be Francine. If a taxable benefit takes the form of property, then not only does the regulation cited in the casebook say so, but there is also the Code itself – IRC § 83(a).

Problem 2.19. Marie's room is a no-additional-cost service, because surprisingly, the regulations treat the maid service as merely incidental and not a substantial cost. *See* Reg. § 1.132-2(a)(5)(ii). The value of her mother's room, however, must be included in Marie's gross income (as wages).

Problem 2.20. This benefit is not excludible. IRC § 132(a)(1) does not apply because Gina does not work in the line of business in which the service is being provided. See IRC § 132(b)(1).

Problem 2.21. This benefit is excludible, because reciprocal agreements are allowed for no-additional-cost services. See IRC § 132(i).

Problem 2.22. This benefit must be included in gross income, because reciprocal agreements are allowed only for no-additional-cost services. See IRC § 132(i).

Problem 2.23. Since the employer was not involved, neither IRC § 83 nor IRC § 132 is applicable. The employees have no gross income because they merely got preferential treatment from a merchant. Getting a “good deal” is not gross income, at least if one did not work for it.

Problem 2.24. The discrimination in favor of the pilots makes the benefit taxable. The pilots must include in gross income the values of the tickets they receive. See IRC § 132(j)(1).

Problem 2.25. Joe can exclude \$300 from gross income, but the additional \$100 benefit, beyond the employer’s gross profit percentage, must be included in Joe’s gross income. IRC § 132(c)(1)(A). Joe can’t exclude the benefit as a working condition fringe, either, because as we’ll see, if he had bought the suit himself, he wouldn’t have been able to deduct its cost.

Problem 2.26. This is an excludible working condition fringe. If she had bought the subscription herself, IRC § 162 would have allowed her a business deduction. Therefore, IRC § 132(a)(3) and IRC § 132(d) allow her to exclude the employer-provided benefit.

Problem 2.27. The regulations (and the legislative history) categorically treat coffee and donuts for employees as de minimis fringes, even for those employees who hog them all. There are no nondiscrimination rules for de minimis fringes.

Problem 2.28. The de minimis exclusion covers holiday gifts of small value, but “generally,” it does not cover gifts of cash (no matter how small). See Reg. § 1.132-6(c). For this purpose, gift certificates are treated as cash; presumably, this includes gift certificates for specialty retailers.