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Think Lodging Credit is Easy? Think Again.

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October, 2011

There has been a recent influx in lawsuits by employees in the property management business. After much consultation and defense of employers in this industry, it has become clear that many employers fail to correctly pay taxes on lodging credit. One of the major problems employers have is grasping the understanding that lodging credit is still “compensation” for tax purposes.

Lodging credit is viewed as a benefit for employers, not only for minimum wage obligations, but also for large tax savings. However, like all California employers, the property management industry must comply with all state and federal laws, including all employer tax obligations and requirements.

Determining what constitutes gross income is the key to understanding an employer’s tax obligation. For tax purposes, gross income includes basically anything of value that a taxpayer receives. For employees, this obviously includes their monetary wages, but it also includes anything else they are given as compensation for their employment, including any “qualified lodging” provided by the employer.

In its simplest form, and for tax purposes only, “qualified lodging” includes any lodging provided by the employer that is:

1. Provided on the business premises;
2. For convenience of employer; and
3. A condition of the employee’s employment

Whether an employee’s compensation includes part lodging credit and part monetary compensation, or whether due to the employee’s limited hours and work schedule he or she receives only lodging credit as his or her sole compensation, an employer must always pay California Unemployment Insurance and State Disability Insurance. However, “qualified lodging” is not subject to Social Security and Medicare taxes.

Lodging credit is great for the employer, as long as understood in its entirety. If you are an employer in the property management industry, or some other similarly situated industry, and you currently do not pay these required tax obligations on your employees’ lodging credit, implement this policy immediately, as it has the potential to save you the expense of future tax penalties and the headache of a Franchise Tax Board audit and/or IRS audit.

You should consult with an attorney for any additional information regarding the requirements of using lodging credit as well as other tax related issues.

Kimball, Tirey & St. John LLP provides employment law advice to its clients and only represents employers. For more information about this article, please contact partner Karl Schlecht at 800-564-6611.

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