POLICY NAME (R*)
Employee Gifts and Awards

POLICY NUMBER (O*)
Not applicable

INITIAL ADOPTION AND EFFECTIVE DATE (R*)
Enter date

POLICY APPLICABILITY (R*)
This policy applies to university employees (administrators, faculty, and staff). It is to be applied when university funds are being used for an employee gift or award. This policy does not apply to gifts or awards presented to employees from a vendor or other third party or to gifts or awards presented to students (unless the student is a university employee).

REASON FOR POLICY (O*)
The intent of this policy is to align with the Internal Revenue Service (IRS) guidelines, to outline specific situations when a gift or award may be given to an employee, and to set dollar limits to determine if a gift or award should be treated as taxable income to an employee.

POLICY STATEMENT (R*)
The University of Louisville (University) allows the use of University funds for occasional gifts or awards of tangible personal property to employees. The gift or award must be approved by the department administrator, must be reasonable, and must be given to the employee to recognize length of service, retirement, expressions of sympathy, birth or adoption of a child, work achievement, or other outstanding service. University funds may not be used to purchase gifts to employees for birthdays, weddings, personal anniversaries, graduations, or other occasions of a more personal nature.

Department administrators should avoid approving gifts or awards of nontangible property (cash, cash equivalents, gift cards, etc.) because such gifts or awards will always be treated as taxable income to the employee. Department administrators are also discouraged from approving gifts or awards in excess of the dollar amount that qualifies as nontaxable. Refer to Taxation of Employee Gifts or Awards for the
specific dollar amounts that qualify as nontaxable and for situations where a gift or award has been approved and made in excess of that amount.

TAXATION OF EMPLOYEE GIFTS OR AWARDS
Gifts and awards must be included in an employee’s taxable salary and wages, subject to withholding of all applicable income, social security, and Medicare taxes, unless the gift or award qualifies for an exception under the IRS guidelines.

Taxable treatment of employee gifts or awards and when such gifts or awards will be excluded from taxable income:

Length of service
Such gifts or awards must be presented to the employee for a length of service achievement at a meaningful ceremony and not based on the employee’s position or classification. For the award to be excluded from the employee’s taxable income, the following additional criteria must be met:

- the employee must have completed at least five (5) years of service;
- the employee must not have received a similar length of service gift in any of the prior four (4) years of service; and
- the gift or award must be tangible personal property (nontangible property is fully taxable regardless of the amount or value); and
- the cost (or value) of the gift or award cannot exceed $400 per employee (if the gift exceeds $400, the amount in excess of $400 will be treated as taxable income to the employee).

For purposes of a length of service awards, tickets to theater, concert, or sporting events are considered the same as cash, cash equivalents, or gift cards and would be taxable to the recipient.

Certain retention bonuses made pursuant to length of service provisions of employment contracts fall outside the scope of this policy and are considered fully taxable per IRS rules and regulations.

Refer to the University’s Employee Recognition Program Policy for the criteria and eligibility requirements that apply to employee length of service awards.

Retirement
The same limitations and restrictions that apply to length of service awards (above) also apply to retirement gifts. Such gifts must be presented to the employee upon the employee’s retirement from the University at a meaningful ceremony and not based on the employee’s position or classification. For the gift to be excluded from
the employee’s taxable income, the cost (or value) of the gift shall not exceed $400 per employee. If the gift exceeds $400, the amount in excess of $400 will be treated as taxable income to the employee.

Expressions of Sympathy/Birth or Adoption of a Child
Gifts of tangible personal property, such as flowers, may be presented as an expression of sympathy in the event of the death or major illness of an employee or a member of the employee’s family or household. A similar type gift may be provided to recognize a birth. For the gift to be excluded from the employee’s taxable income, the cost of the gift shall not exceed $100 per employee. If the gift exceeds $100, the entire amount of the gift is taxable to the employee.

As an alternative, cash contributions may be made to a charitable organization in lieu of a gift of personal property and must be limited to $200. There is no tax consequence to the employee regardless of the amount of the donation. The contribution must be accompanied by a transmittal letter on official University letterhead and it must state in the letter that the donation was made on behalf of the University. Contributions to political campaigns or political groups are not permitted for this purpose.

Work Achievement or Outstanding Service
Such gifts or awards must be presented to an employee in recognition of noteworthy, work-related accomplishments and be provided within an established recognition program and based on objective criteria. The gifts or awards should be minimal in value and presented only on an occasional basis. For the award to be excluded from the employee’s taxable income, the following additional criteria must be met:

- the gift or award must be tangible personal property (nontangible property is fully taxable regardless of the amount or value); and
- the cost (or value) of the gift or award cannot exceed $100 per employee (if the gift or award exceeds $100, the entire amount is taxable to the employee); and
- the employee cannot receive more than one such gift or award per calendar year (gifts or awards presented on a regular or routine basis do not meet IRS criteria for exemption and may be taxable income to the employee).

Certain achievement or “incentive” bonuses made pursuant to provisions of an employment contract fall outside the scope of this policy and are considered fully taxable per IRS rules and regulations.
Examples of work achievement and outstanding service gifts or awards include, but are not limited to, plaques, flowers, books, fruit baskets, and tickets to sporting or cultural events.

De Minimis
De minimis gifts or awards of tangible personal property provided to employees are gifts or awards that do not exceed $100 per employee. If the cost of a gift or award exceeds $100, then it is not considered de minimis and the entire amount is fully taxable to the employee per IRS rules and regulations. Examples of de minimis gifts include, but are not limited to:

- controlled, occasional use of a photocopier;
- occasional snacks, coffee, doughnuts, etc.;
- occasional tickets for entertainment events;
- holiday gifts;
- occasional meal or transportation expenses for an employee required to work overtime; and
- flowers, fruit, books, etc. provided under special circumstances.

Nontangible property, such as cash, cash equivalents, and gift cards, are never de minimis and therefore are fully taxable to the employee, with the exception of certain non-negotiable, non-transferable certificates that allow an employee to receive a specific item of personal property that does not exceed $100 in cost or value and is provided infrequently and is administratively impractical to account for such items. Additionally, the IRS provides for a limited exception where cash is provided to an employee for an occasional meal or transportation costs to enable the employee to work overtime. For this IRS exception, the employee must be required to work the overtime and it must be an unusual, extended schedule. The benefit is not excludable for any regular scheduled hours, even if they include overtime hours.

Reporting of Taxable Gifts or Awards
Gifts or awards that do not meet the criteria for being excluded from taxable income will be treated as taxable income to the employee and must be reported to Payroll Services on a Non-Cash Compensation Form. Refer to the Procedures section of this policy for submitting this form.

Department heads/deans may establish more restrictive departmental policies on employee gifts and awards, including the dollar limits allowed for such gifts and awards.
RELATED INFORMATION (O*)

Internal Revenue Code Sec. 274(j)

Internal Revenue Code Sec. 132(a)(4)

IRS Pub. 15-B

IRS Technical Advice Memorandum 200437030

Employee Recognition Program Policy

DEFINITIONS (O*)

Cash equivalent – For purposes of this policy, any gift or award that has the same transferability and negotiability as cash and where the value is readily ascertainable. Examples include savings bonds, retail gift cards, gift certificates redeemable for services or general merchandise, store credit, points, bitcoins, etc.

De minimis - The IRS defines a de minimis benefit as “one for which, considering its value and the frequency with which it is provided, is so small as to make accounting for it unreasonable or impractical…. In determining whether a benefit is de minimis, ... consider its frequency and its value. An essential element of a de minimis benefit is that it is occasional or unusual in frequency. It also must not be a form of disguised compensation.”

Department administrator – Any individual with the authority to approve use of University funds for employee awards or gifts.

Length of service award – an item of tangible personal property presented to an employee for meritorious length of service to the University. The award must be given for a length of service achievement and be presented as part of a meaningful ceremony and not determined based on an employee’s position or classification.

Non-tangible property – For purposes of this policy, any gift or award that is cash, cash equivalent, retail gift cards (negotiable or nonnegotiable); gift certificates redeemable for services or general merchandise (including vacation, meals, and lodging), gift coupons; stocks, bonds or other securities; or any other negotiable item.

Tangible personal property – For purposes of this policy, any item that is not cash or a cash equivalent.
PROCEDURES (O*)

Procedures for reporting employee taxable gifts or awards:

- The department administrator or the department’s business manager should complete and submit a Non-Cash Compensation Form after the gift or award has been disbursed to the employee.
- Upon receipt of the completed form, Payroll Services will withhold additional income, social security, and Medicare taxes from the employee’s pay as applicable based on the value of the reported taxable benefit.

RESPONSIBILITIES (O*)

Department personnel (administrators, lead fiscal officers, and unit business managers) are responsible for adhering to the guidelines established in this policy when planning employee gifts or awards to ensure they are appropriately approved and processed. Department personnel should identify and timely report taxable benefits to Payroll Services whenever such benefits are disbursed to employees.

Payroll Services personnel shall ensure timely tax withholding on any taxable benefits reported by department personnel as well as appropriate reporting on the employee’s annual Form W-2.

Tax department personnel shall ensure this policy is updated in accordance with current tax laws and shall assist departments by providing guidance on unusual situations as they arise.

FORMS/ONLINE PROCESSES (O*)

Non-Cash Compensation Form
Summary of Gifts/Awards Treatment

RESPONSIBLE AUTHORITY (R*)

Vice President for Finance and Chief Financial Officer

RESPONSIBLE UNIVERSITY DEPARTMENT/DIVISION (R*)

Tax Department
Controller’s Office
Louisville, KY 40292
502.852.3337
HISTORY (R*)

This policy supersedes the University’s De Minimis and Memorial Gifts policies and is effective enter policy effective date.

Revision Date(s):
Reviewed Date(s):

The University Policy and Procedure Library is updated regularly. In order to ensure a printed copy of this document is current, please access it online at http://louisville.edu/policies.

R* = Required    O* = Optional