

TAX IMPLICATIONS FOR EMPLOYEE RECOGNITION

When considering the tax implications of your service award program, the significant piece of US Tax Code you should be familiar with is [**IRS Code 274\(j\) – Achievement Awards**](#).

As a general rule, bonuses, gifts, and gift cards are taxable with some limited exceptions under 274(j). Under two conditions, there are award entitlements that do not have to be considered taxable income – Those are **length of service** and **safety programs**.

Under 274(j), the value of up to \$1,600 can be excluded from income for awards given to employees if certain criteria are met:

- To be considered a “qualified program,” the total program spend cannot exceed an average of \$400 per recipient.
- The total number of recipients cannot exceed 10% of total employee population.
- The gift must be “tangible personal property”
 - This **includes** “certificates conferring only the right to select and receive tangible personal property from a limited array of pre-selected items.”
 - This **excludes** “cash or cash equivalents, securities, vacations, lodging, meals, tickets to theatres or sporting events.”
- The award must be presented as part of a “meaningful presentation.” The presentation does not have to be elaborate, but emphasis must be put on the employee's achievement.
- The award must be presented under conditions that do not create “disguised compensation.”
- Length-of-service awards must not be presented to employees for less than five years of service, and they must wait a period of 5 years before becoming eligible again.

We are not tax lawyers, but our opinion is that our Anniversary Award Card complies with the intent and limitations of the law as being tax exempt:

- The Award Card is a certificate that confers only the right to select and receive tangible personal property from the 77 retailers selected;
- The Merchandise is limited and pre-selected to the retailers that have been identified and set up;
- The Award Card is not a Gift Card nor a Credit Card. This is validated by the terms and conditions which do not follow nor have to adhere to the Gift Card Consumer Protection Laws because of how this card was designed to function.