

WAC 415-112-412 Are nonmoney payments from my employer earnable compensation? (1) Nonmoney maintenance compensation, as defined in this section:

(a) Is earnable compensation to the extent authorized by this section, for Plan 1 members; and

(b) Is **not** earnable compensation for Plan 2 and 3 members.

(2) Nonmoney maintenance compensation is compensation legally provided to you in a form other than money. For example, nonmoney maintenance compensation may include the provision of materials such as living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and utilities. To be considered nonmoney maintenance compensation, the materials must be provided for your personal use and/or the personal use of your dependents, not for a business use. The materials are **not** nonmoney maintenance compensation if:

(a) You use them solely in connection with your employer's business; or

(b) They are provided in lieu of reimbursement for your business expenses.

(3) To prove that the provision of materials constitutes nonmoney maintenance compensation:

(a) Your employer must substantiate by adequate records or other sufficient corroborating evidence that the materials were provided to you for your personal use as payment for your services to the employer.

(b) Your employer must substantiate that the fair market value of the materials provided is includable in your taxable income for federal income tax purposes.

(c) You may provide corroborating evidence to the department. Written documentation prepared at or near the time the materials were provided is generally preferred.

(d) In the absence of clear proof, the department will presume that employer-provided materials were not nonmoney maintenance compensation.

(4) If you are a member of TRS Plan 1, your employer must report nonmoney maintenance compensation to the department as earnable compensation. The amount reported as earnable compensation is the fair market value of materials legally provided by your employer. To substantiate the value of nonmoney maintenance compensation:

(a) Your employer must establish and regularly update a written schedule reflecting the monthly fair market value of the materials provided. Typically, the fair market value would be the cost of the item if it were acquired in a purchase or lease transaction. Your employer must be able to substantiate the accuracy of this schedule with adequate records.

(b) If you pay any amount to your employer in order to own or use the materials, your employer must report as earnable compensation the amount by which the fair market value exceeds the amount of your payment.

[Statutory Authority: RCW 41.50.050(5), 41.32.010(10). WSR 05-12-042, § 415-112-412, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5) and 41.32.010 (10)(b). WSR 02-03-120, § 415-112-412, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050. WSR 95-22-006, § 415-112-412, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 41.32.010(11) and 41.32.160. WSR 87-17-060 (Order DRS 87-07), § 415-112-412, filed 8/19/87.]