

04 NCAC 24D .0503 ALLOWANCES AND REIMBURSEMENT ADVANCES

(a) Allowances, advances of reimbursements paid to an individual in employment for traveling, and other bona fide expenses incurred or reasonably expected to be incurred in the business of the individual's employer shall not be treated as wages, provided:

- (1) a separate payment is made for the expenses; or
- (2) itemized accounting records are kept indicating the separate amounts where a single payment covers both wages and expenses combined; and
- (3) the amount of payments for expenses excluded from wages shall not exceed the amounts allowable as deductible expenses by income tax regulations under the United States Internal Revenue Code, 26 U.S.C. 62(2) and 26 U.S.C. 162(a)(2). Where the United States Internal Revenue Service (IRS) has not made a determination, DES shall make an independent determination.

(b) Where an employee must pay traveling and other expenses out of commissions or salary and these amounts are not accounted for separately, the entire amount of commissions or salary shall be considered wages, unless the employer submits itemized records which show that a certain percentage of commissions or salary is expenses.

- (1) The money value for room and board shall not be included in wages if the room and board is provided to the employee for the convenience of the employer.
 - (A) If the room and board has been excluded from wages by the IRS for income tax withholdings, FICA and FUTA, it shall be considered to be for the convenience of the employer and excluded from wages.

(c) This rule incorporates 26 U.S.C. 62(2) "Adjusted Gross Income Defined" and 26 U.S.C. 162(a)(2) "Traveling Expenses" by reference and includes subsequent amendments and editions of the referenced material in accordance with G.S. 150B-21.6. Copies of the incorporated material found in 26 U.S.C. 62(2) and 26 U.S.C. 162(a)(2) are located at 700 Wade Avenue, in Raleigh, North Carolina, and may be obtained by request at no cost to the public by contacting DES as specified under 04 NCAC 24A .0201.

*History Note: Authority G.S. 96-4; 150B-21.6; 26 U.S.C. 62(2); U.S.C. 162(a)(2).
Eff. July 1, 2015.*