

Commuter Choice Tax Benefits – Top 10 FAQs¹

Employers can increase their benefits package and reduce their payroll taxes by offering Commuter Choice tax benefits, which can be paid for by the employer, by the employee (through a pre-tax salary deduction), or by a combination of both employer and the employee.

The following FAQs summarize Commuter Choice Tax Benefits under the most recent federal transportation bill signed into law. These benefits are offered through Section 132 of the Federal tax code. For more information please review the [Commuter Tax Benefits Summary Table](#).

Q1: What is the "Transit Benefit Program?"

A1: It is a provision of the Internal Revenue Code (IRC), Section 132 (f) that permits an employer to subsidize his/her employees' cost of commuting to work by transit. It also allows employees to use pre-tax dollars to pay for their transit passes.

Q2: What types of transit services qualify for the Transportation Commuter Benefit?

A2: Any type of transit service publicly or privately owned or operated including bus, rail, subway, ferry, subscription bus, shuttle bus, and commuter highway vehicles under contract which provides to the public and/or employees, general or special service on a regular and continuing basis.

Q3: What various VANPOOL arrangements qualify for the Transportation Commute Benefit?

A3: Transportation in a commuter highway vehicle (vanpool) which is provided "by-and-for" (on behalf of) the employer is eligible for the Transportation Commute Benefit. These types of vanpool arrangements are: employer-owned; employer-leased; employee-owned; employee-leased, and public transit operated (see question 9 of IRS Bulletin 94-3).

Q4: How are adjustments for inflation made?

A4: The maximum for all benefits will be subject to annual inflation adjustments as determined by the IRS. Increases have been triggered by cost of living increases and historically occurred in \$5 increments. The current maximum tax-free allowable benefit is \$130 for transit, vanpools and qualified parking.

Q5: What are the employer's record keeping requirements of the Transportation Commute Benefit?

A5: In the case of cash reimbursements, a bona-fide reimbursement arrangement constitutes adequate record keeping. In the case of the voucher system used for transit or vanpools, employers need only maintain a record of the purchase of the vouchers. In

¹ This material was derived from the web site of the National Center for Transportation Research, University of South Florida.

all other cases, the employer must maintain adequate records, which reasonably demonstrate expenditures under the benefit. As an example, in the case of an employer who participates in a transit pass program by selling passes of a local transit provider at a discount, the employer should keep records of the pass sales to employees in addition to the arrangement with the transit provider(s).

Q6: To whom and for what purposes may the qualified transit benefit be offered?

A6: An employer can offer the benefit to any employee or group of employees within the work force. The amount can vary among employees, it can be provided on a regular basis or once a year instead of a bonus, or it can be provided as a recruitment tool or an incentive payment to address a problem such as recurring lateness. It can also be used only for a limited group of employees or available to all employees, at the employer's discretion. It must, however, be provided for commuting expenses--not for personal travel.

Q7: Can an employee buy transit passes without going through the employer?

A7: Qualified transportation fringes are employer-provided benefits which allow employers to treat benefits provided to employees in a tax preferred way. If an employee purchases a transit pass with their money, there is no way that the employee can obtain the tax savings. The employee cannot deduct the amount when they file their personal income tax forms. **However, the employer can treat the amount they provide to their employees in the form of qualified transportation fringes as tax free and excludable from gross income of the employee thereby giving employees a financial savings.**

Q8: Can an employee require employers to provide a transit pass benefit?

A8: No. Section 132(f), Qualified Transportation Fringes, is permissive. How and under what circumstances an employer provides these benefits to its employees is within the employer's discretion. The employer may provide only one kind of benefit or all types of transportation fringes, at its sole discretion.

Q9: If an employee is receiving the maximum benefit allowed by law, does the benefit automatically increase when the statutory maximum is increased?

A9: No. The employer makes the decision if and when to increase the benefit or even whether to provide the maximum regardless of whether the employer or employee is paying for the benefit.

Q10: What records as an employee do I have to keep if I receive a qualified transportation fringe?

A10: If your employer utilizes a cash reimbursement system, you may have to provide your employer with receipts or some record of your expenses. If you receive vouchers from your employer to pay for your transit expenses, for example, you may not have any record keeping requirements but you may have to certify to your use of transit and monthly expenses to your employer. There are no employee record keeping requirements for purposes of any tax filing such as the annual personal income tax form. The amount of the fringe benefit an employee receives from their employer will not be included in an employee's W-2 form, for example.