

# Benefits BRIEF



## Qualified Transportation Plans: An Overview for Employers

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Internal Revenue Code (the Code) Sec. 132(f) allows for the tax-free provision of certain transportation fringe benefits from employers to their active employees. This benefit, known as a qualified transportation plan or commuter benefit plan, has steadily increased in popularity due in part to some state and local laws that mandate an employer offering.

Unlike benefits offered under a group health plan, transportation plans are typically much easier for an employer to sponsor and administer. These benefits are not subject to the Employee Retirement Income Security Act of 1974 (ERISA) and its related provisions, and therefore come with fewer compliance requirements. Importantly, though, the Code does impose critical guidelines that employers must follow when implementing a qualified transportation plan.

### Benefit Options

The Code permits employers to provide four types of transportation benefits to employees on a tax-free basis:



**Type 1 • Parking** – The parking benefit includes parking that is provided to an employee at or near the employer’s business, or parking provided at or near a location from which the employee commutes to work. The statutory maximum for parking benefits is \$270 per month for 2021;



**Type 2 • Transit Passes** – The transit passes benefit can be used for any mode of mass transit, such as busses, subways, and trains. The statutory maximum for transit passes is combined with vanpooling expenses and is \$270 per month for 2021;



**Type 3 • Vanpooling** – The vanpooling benefit refers to transportation from the employee’s residence to the place of employment so long as it is done in a commuter highway vehicle with a seating capacity of six or more; and,



**Type 4 • Bicycle reimbursement** – The bicycle benefit reimburses expenses that are incurred in purchasing, repairing, or storing a bicycle used for travel between the employee’s residence and the place of employment. The statutory maximum is determined annually rather than monthly, and from 2018 until 2026, no tax-free benefit is available.

A plan can provide one, some, or all of the benefit options. But to preserve the tax-favored nature of the benefit, the plan must adhere to the applicable statutory limits. Any benefit provided in excess of the limit will be taxable to the employee.

## Plan Designs

When creating a transportation plan, employers have two design options. An employer may choose one or a combination of both designs:



**Employer-Provided Benefits** – This option requires the employer to give the benefits to employees. The amounts provided must adhere to statutory maximums and are excludable from income.



**Pre-Tax Compensation Reductions** – Under this option, employees elect to make pre-tax payroll deductions in order to fund their benefits (subject to the statutory limits).

Regardless of the chosen design, an employer should be mindful of a few important plan elements. First, though not required, the employer should create a plan document that will serve as the legal basis for the plan. The document should outline the plan’s features, including eligibility criteria and the chosen design. This document, or a condensed version of it, can also be distributed to employees to communicate the plan’s terms.

Second, the employer should decide whether it will take on the administration of the plan or outsource it to a third-party administrator (TPA). Depending upon the plan design and the employer’s in-house resources, self-administration of a transportation plan may be quite feasible. Often, though, where an employer has an existing relationship with a TPA for the administration of a flex plan (such as a Health or Dependent Care FSA), the administration of the transportation plan can be added on for a small fee.

Finally, the employer will need to work with its payroll provider or tax advisor to understand the tax treatment of the benefits under state law. Some states may provide more generous tax treatment than what is permitted under federal law.

## Employee Elections

Pre-tax compensation reduction elections under a transportation plan bear some similarity to those made under a Code Section 125 Cafeteria Plan. Employee elections must be documented in writing (or electronically) and must be made before the period of time for which the benefit will be provided (*i.e.*, elections must be on a prospective basis). And while employee elections are irrevocable for the coverage period, the plan's coverage period can be designed to be less than a year. For example, most plans provide for monthly coverage periods, which allows employees to change their elections – for any reason – as frequently as monthly.

## Carryovers and Forfeitures

So long as an employee remains employed by the employer, the plan may permit unused benefit amounts to carry over from one month to the next. There is no limit to the amount that can be carried over, but the amounts that are actually reimbursed in a month cannot exceed the statutory maximum.

Once an employee ceases participation in the plan (which may occur upon termination of employment), any remaining unused amounts are forfeited; no refunds can be provided. Consequently, employees should stay informed of their monthly account balances. Because employees generally have flexibility to change their elections throughout the year, those with high balances may wish to decrease their deductions in order to spend down their account.

## Reporting and Disclosure Requirements

Because ERISA does not apply to commuter benefits, these arrangements are not subject to the reporting and disclosure requirements that an employer typically must fulfill on behalf of its group health plan. These arrangements will not be reported on an annual Form 5500, nor is the employer obligated to distribute to employees any sort of plan summary (though distribution of such a document is a best practice).

Similarly, no special tax reporting or testing is required of the employer. However, an employer may choose to report deductions in Box 14 of an employee's Form W-2.

### ADDITIONAL RESOURCES

[Publication 15-B \(2021\), Employer's Tax Guide to Fringe Benefits](#)