

TRANSPORTATION FRINGE BENEFITS ARE NOW UBI— EFFECTIVE JAN. 1, 2018

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Does your tax-exempt organization provide transportation and parking benefits to employees? If so, you may have another commuter headache: a new tax. Under the Tax Cut and Jobs Act of 2017 (the Act), a provision was added to the Internal Revenue Code that is likely to require many tax-exempt organizations to pay unrelated business income tax (UBIT). Certain costs of qualified transportation, including transit passes, qualified parking and more, will now be taxed as unrelated business income at 21 percent.

The Act added the following provision to the Internal Revenue Code: **Internal Revenue Code (IRC) Section 512(a)(7): Increase in unrelated business taxable income by disallowed fringe.**

This provision was an attempt to put exempt organizations on the same footing as taxable organizations that will no longer be able to deduct these costs. The provision is effective for amounts paid or incurred after Dec. 31, 2017.

Under this provision, **certain qualified transportation fringe benefits, including those relating to parking garages, must be reported as unrelated business income (UBI).** All tax-exempt organizations (and a college or university owned and operated by a state or other governmental unit) will have to include as unrelated business taxable income any amounts paid or incurred for any qualified transportation fringe benefit, including the following:

- A ride in a commuter highway vehicle between the employee's home and workplace.
- A transit pass.
- Qualified parking.

Qualified parking is parking you provide to your employees on or near your business premises. It includes parking on or near the location from which your employees commute to work using mass transit, commuter highway vehicles, or carpools. If an organization has its own garage that is used for parking that is already reported as UBI (e.g., parking for the general public), then the percentage of those costs attributable to the amount already included in its UBI does not have to be included in the amount treated as UBI under the new provision.

The UBIT on these employer costs is 21 percent at the federal level and state taxes may apply as well. Organizations should consider making estimated tax payments on these taxes.

These employee fringe benefits are still excluded from an employee's income. Employers can generally exclude the value of transportation benefits provided to an employee during 2018 from the employee's wages up to the following limits:

- \$260 per month for combined commuter highway vehicle transportation and transit passes.
- \$260 per month for qualified parking.

See [IRS Publication 15-b](#) for more information.

Even if the benefit is provided under a compensation reduction agreement, the payment will still result in UBIT for the organization. The only way the organization can avoid counting these benefits as UBI is to have the employee pay for the benefits with after-tax dollars.

COMPENSATION REDUCTION AGREEMENT EXAMPLE:

For 2018, the monthly limit on the amount that may be excluded from an employee's income for qualified parking benefits is \$260. Commuter employees can receive both the transit and parking benefits up to \$520 per month tax-free.

On a per employee basis, **for commuter and transit passes only**, \$260 monthly is \$3,120 annually, and the UBI tax on this amount at 21 percent is \$655 plus state taxes, if applicable. With 100 employees, the federal tax alone would be \$655 per employee and approximately \$65,500 in total. To the extent your organization provides a commuter benefit of up to \$520 per month, the UBI tax can be much more.

Next Steps:

- Organizations should determine whether they provide these transportation and parking benefits, and if so, to how many employees, what kind and how much?
- Calculate the estimated tax payments for Federal UBI and the state, if applicable.
- If your organization has not filed Form 990-T in the past, enroll the organization in the Electronic Federal Tax Payment System in order to remit the taxes.