

LEGAL UPDATE

IRS: Unused Transit Benefit May Be Used for Parking

In response to a question from a worker who, due to COVID-19, opted to drive to work instead of using public transportation, the IRS has issued a [letter](#) saying that employees may apply unused commuter transit benefit amounts to parking benefits in certain circumstances.

Rolling Over Unused Benefits

In the letter, the IRS states that an employee “is not precluded from rolling over unused transit benefit amounts through the use of another qualified transportation fringe,” such as qualified parking, if the other fringe:

- Is offered by the employer’s plan; and
- Does not exceed the maximum monthly amount for the respective qualified transportation fringe benefit.

Monthly Benefit Limits

The monthly maximum excludable amount for qualified parking is \$270 in 2020 and 2021. The monthly limit for the other qualified fringe benefits of transportation in a commuter highway vehicle and transit passes, combined, is also \$270 for 2020 and 2021.

Limitations on Use of Benefits

The letter points out the following limitations:

- Amounts set aside under a compensation reduction agreement are not refundable other than by payment of another qualified transportation fringe under the employer’s plan; and
- The employee must have made a valid compensation reduction election (and not have been terminated) to use compensation reduction amounts for commuting expenses in future months.

IRS Guidance

- The IRS letter responded to a letter from a Congressperson written on behalf of a constituent.
- Generally, the IRS cannot provide binding legal advice to taxpayers unless they request a private letter ruling.
- However, the IRS was able to provide general information on qualified transportation fringe benefits.

Compensation reduction amounts may not be refunded to the employee except through the use of other plan transportation fringe benefits.

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