

New Jersey Enacts Pre-Tax Transit Benefits for Employees

Following the lead of several major metropolitan areas (i.e. NYC, Washington D.C.), New Jersey has passed a law requiring employers to provide pre-tax transportation fringe benefits to employees. The statewide law became effective immediately upon the Governor's signature on March 1, 2019 however, no penalties will be assessed until the earlier of March 1, 2020 or the date future regulations become effective. Here's what employers need to know:

Which Employers are Subject to the Transit Law?

All employers subject to the NJ unemployment compensation law with 20 or more employees will be required to offer pre-tax transit benefits to employees. According to the Governor's signing statement, the transit law does not apply to federal government employees.

Which Employees are Covered by the Transit Law?

Employers subject to the NJ transit law must offer pre-tax transit benefits to all employees. Transit benefits for employees covered by a collective bargaining agreement may begin upon the expiration of the collective bargaining agreement that was in effect on March 1, 2019.

What Pre-Tax Transit Benefits Must Be Offered?

The benefits that must be offered generally follow the federal qualified transportation fringe benefit provisions. The NJ law states:

"Pre-tax transportation fringe benefit" means a pre-tax election transportation fringe benefit that provides commuter highway vehicle and transit benefits, consistent with the provisions and limits of section 132(f)(1) of the United States Internal Revenue Code of 1986 (26 U.S.C. s.132(f)(1)) at the maximum benefit levels allowable under federal law, to be deducted for those programs from an employee's gross income pursuant to section 132(f)(2) of the United States Internal Revenue Code of 1986 (26 U.S.C. 9 s.132(f)(2))."

The current monthly maximum benefit level is \$265 for transit-related commuting expenses including transit passes, vanpools, and qualified parking expenses.

While qualified transportation fringe benefits continue to be excludable from an employee's wages for federal tax purposes, employers generally may no longer take a federal tax deduction for qualified transportation fringe benefits except as necessary to ensure the safety of the employee.

Noncompliance Penalties

When applicable, employers that do not provide transit benefits to employees may be subject to penalties of \$100 to \$250 for a first-time violation with additional penalty assessment after a 90-day period of noncompliance.

Action Items

New Jersey employers should be on the alert for implementing regulations and consider the following action steps:

- Review any pre-tax transit benefits currently provided to employees to determine if the plan meets the NJ requirements, or establish a pre-tax transit plan if one does not currently exist.
- Review/engage vendors that provide qualified transportation benefit services.
- Communicate the program to employees (or be prepared for employee inquires) as NJ intends to initiate a public awareness campaign about the new transit benefit program.
- Determine when any collectively bargained agreements may need to come into compliance with the law.

ADDITIONAL INFORMATION

For specific questions concerning information contained in this UPDATE, please contact your CohnReznick Benefits consultant. Information contained in this UPDATE is not intended to render tax or legal advice. Employers should consult with qualified legal and/or tax counsel for guidance with respect to matters of law, tax and related regulation. CohnReznick Benefits Consultants provides comprehensive consulting and administrative services with respect to all forms of employee benefits, risk management, qualified and non-qualified retirement plans, and compensation and human resources. For additional information about our services, please contact us at 516.683.6100 or mail@CohnReznickBenefits.com