



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

June 11, 2002

Number: **INFO 2002-0117**
Release Date: 9/30/2002
UIL: 132.10-00

CC:TEGE:EOEG:ET2
GENIN-126054-02

VIA: FACSIMILE: [REDACTED] & FIRST CLASS MAIL

[REDACTED]

Reference: Qualified Transportation Fringe Benefits

Dear [REDACTED]

This letter responds to your correspondence dated April 23, 2002, requesting that we determine whether or not parking with a single occupancy vehicle at or near an employer's place of business is "qualified parking" that may be subject to pretax compensation reductions as provided in Internal Revenue Code (Code) § 132(f).

As a general matter, the Internal Revenue Service is not able to provide binding legal advice applicable to a particular taxpayer unless the procedure for issuing a formal opinion, as described in Revenue Procedure 2002-1, 2002-1 I.R.B. 1, is followed. Your request does not conform to the requirements of Revenue Procedure 2002-1 and, therefore, does not provide the necessary information to issue a formal opinion applying Code § 132(f) to your specific facts. However, we are able to provide you with the following general information regarding qualified parking as set forth in Code § 132(f) and Treasury Regulations § 1.132-9 (2001).

Code § 132(a) provides that employers may exclude from their employees' gross income any fringe benefit that qualifies as a "qualified transportation fringe," which includes certain benefits that employers provide to their employees for commuting to work. Code § 132(f) defines the term "qualified transportation fringe" to include transportation benefits provided by an employer to an employee for (1) travel in a commuter highway vehicle (e.g., van pooling) if such travel is between the employee's residence and place of employment, (2) any transit pass, and (3) qualified parking. The monthly amount that may be excluded from an employee's gross income is \$100.00 for the aggregate benefits of transportation by commuter vehicle and by transit pass and \$185.00 for qualified parking.

"Qualified parking" means parking provided to an employee on or near the employer's business premises OR on or near the location from which the employee commutes to work by transportation by mass transit, commuter highway vehicle, car pool, or by a person in the business of transporting persons for compensation or hire. Code §

GENIN-126054-02

132(f)(5)(C); Treas. Reg. § 1.132-9, Q/A-4. Qualified parking is not limited to multiple-occupancy vehicles but may include single-occupancy vehicles as long as the Code and regulation requirements are met. See Treas. Reg. § 1.132-9, ex. 3, Q/A-14. However, qualified parking does not include any parking on or near property used by the employee for residential purposes. Code § 132(f)(5)(C).

Code section 132(f)(4) provides that an employer may allow an employee the choice of receiving either a fixed amount of cash compensation at a specified future date or a fixed amount of qualified transportation fringe benefit to be provided at a future date. In other words, an employer may provide an employee with a pretax reduction of the employee's compensation to pay for the costs of the employee's use of transportation by commuter highway vehicle or by transit pass or for qualified parking as defined under Code § 132(f). A compensation reduction election must be made before the employee is able to currently receive the cash or other taxable amount at the employee's discretion. Treas. Reg. § 1.132-9, Q/A-14. The period for which the qualified transportation fringe benefit will be provided must be specified in the election and cannot begin before the election is made. Treas. Reg. § 1.132-9, Q/A-14.

I have enclosed the final regulations for Code § 132(f), which are Treasury Regulations §1.132-9 Qualified Transportation Fringe Benefits, for your information. The rules concerning the pretax application of qualified parking benefits are set forth in Q/A-11 through 14, which may be helpful for your determination.

If, after applying the above-listed law to your facts, you determine that parking by your employees is "qualified parking" per Code § 132(f), then you, as an employer, may choose to apply the benefit as a pretax reduction of the employee's compensation as provided in the Code and regulations.

As you requested in the fax cover sheet for your letter, we are sending our response to you by facsimile and by first class mail. If you have any questions, please do not hesitate to call [REDACTED], at (202) 622-6040.

Sincerely,
Lynne Camillo
Chief, Employment Tax Branch 2
Office of the Assistant Chief Counsel
(Exempt Organizations/Employment
Tax/Government Entities)

Enclosure