



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

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The Honorable Brad Sherman
Member, U.S. House of Representatives
5000 Van Nuys Boulevard, Suite 420
Sherman Oaks, CA 91403

Attention:

Dear Representative Sherman:

I am responding to your inquiry dated January 28, 2019, on behalf of your constituent, . explained his wife was participating in her employer's qualified transportation fringe benefit plan when she was fired. At the time of her firing, she had approximately \$380 of unused commuter benefits that were the result of her compensation reduction contributions. is seeking clarification on how the transportation benefits are treated when an employee is fired.

If an employee chooses to receive a qualified transportation fringe instead of cash compensation, the law treats the benefit as provided directly by the employer rather than purchased by the employee with the amount of the compensation reduction. An employer may provide qualified transportation fringe benefits only to individuals who are current employees of the employer when the qualified transportation fringe is provided (Section 1.132-9(b) Q/A-5). Therefore, employers can't continue providing qualified transportation fringes to individuals who are no longer employees. This rule applies regardless of whether the benefits are provided in addition to an employee's regular compensation or under a compensation reduction agreement.

When an employee is fired, compensation reduction amounts are not refundable to the employee. This applies even though the employee's contributions may exceed the actual qualified transportation benefits the employer provided to the employee. As stated in Treasury Regulation Section 1.132-9, Q/A-14, this rule does not distinguish

between employees who are fired (or involuntarily terminated) and those that quit their employment voluntarily.

Employees who stop participating in an employer's qualified transportation benefit plan without cancelling their compensation reduction election cannot receive a refund of any amount. In addition, the terminated employee cannot use the funds for continued transportation expenses.

I am sorry my response is not favorable, but I hope this information clarifies the basis for the decision. If you need more information, please contact me or of my staff at .

Sincerely,

Lynne A. Camillo
Chief, Employment Tax Branch 2
Office of the Associate Chief Counsel
(Employee Benefits, Exempt Organizations &
Employment Tax)