



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

OFFICE OF THE CHIEF COUNSEL

September 8, 2020

Number: **2020-0024**  
Release Date: 9/25/2020

CONEX-117418-20

UIL: 132.00-00, 132.08-04, 132.10-00

The Honorable Chellie Pingree  
U.S. House of Representatives  
Washington, D.C. 20515

Attention:

Dear Representative Pingree:

I am responding to your inquiry dated August 6, 2020, on behalf of one of your constituents. Your constituent asked if it is possible to rollover unused transit benefits into a parking account. He explained that he used to take public transportation to commute to work, but due to COVID-19 he is now using his personal vehicle to drive to work. As explained below, an employee is not precluded from rolling over unused transit benefit amounts through the use of another qualified transportation fringe, such as qualified parking, to the extent it is offered by the employer's plan and it does not exceed the maximum monthly amount for the respective qualified transportation fringe benefit.

Generally, we cannot provide binding legal advice to taxpayers unless they request a private letter ruling as described in Rev. Proc. 2020-1, 2020-1 I.R.B. 1. However, I can provide the following general information on qualified transportation fringes under Section 132(f) of the Internal Revenue Code (Code).

Section 61(a)(1) of the Code provides that gross income means all income from whatever source derived, including compensation for services, including fees, commissions, fringe benefits, and similar items. Therefore, we consider a fringe benefit provided by an employer to be income to an employee unless another section of the Code specifically excludes it from gross income. Section 132(a)(5) generally provides that gross income does not include any fringe benefit that constitutes a qualified transportation fringe.

Section 132(f)(1) defines qualified transportation fringes to include:

- (1) transportation in a commuter highway vehicle between the employee's residence and place of employment,
- (2) any transit pass, and
- (3) qualified parking.

Qualified parking is defined in Section 132(f)(5)(C) as parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work. An employer may simultaneously provide an employee with any one or more of these three benefits. Transit passes are defined as any pass, token, farecard, voucher or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is on mass transit facilities or is provided by any person in the business of transporting persons for compensation or hire in a commuter highway vehicle.

Section 132(f)(2) provides that the amount of qualified transportation fringes provided by an employer to any employee that can be excluded from gross income under Section 132(a)(5) cannot exceed a maximum monthly dollar amount, adjusted for inflation. The adjusted maximum monthly excludable amount for 2020 is \$270 for qualified parking. There is a separate \$270 monthly limitation for the combined total amounts of transportation in a commuter highway vehicle and transit passes.

An employer may provide qualified transportation fringes as a supplement to an employee's compensation, either in kind or through a bona fide reimbursement arrangement, as described in section 1.132-9, Q/A-16 of the Treasury Regulations. In addition, section 132(f)(4) provides that employers may provide qualified transportation fringes via compensation reduction agreements. An employee must make a compensation reduction election in an amount that does not exceed the maximum monthly excludable amount before the employee is able currently to receive the compensation, and may revoke the election at any time during the year as long as the revocation is made before the employee is able to currently receive the compensation and before the beginning of the period for which the qualified transportation fringe will be provided. Further, the amount of qualified transportation fringe benefits received under a compensation reduction agreement may not exceed the applicable combined total monthly limitations for qualified parking and transportation in a commuter highway vehicle and transit passes. See section 1.132-9 Q/A-11 through 15.

Cash reimbursements by an employer to an employee for expenses related to qualified parking must be made under a bona fide reimbursement arrangement that satisfies substantiation requirements. See section 1.132-9(b) Q/A-16. However, there are no employee substantiation requirements in the case of transit passes. See section 1.132-9(b) Q/A-18.

Further, the regulations specify that 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. See section 1.132-9, Q&A 14(d). Therefore, the regulations do not allow a refund of qualified transportation fringe benefits if they are

related to a compensation reduction arrangement, other than through payment of a qualified transportation fringe under the employer's plan. However, an employee is not precluded from later receiving the compensation through the use of another qualified transportation fringe, such as qualified parking, to the extent it is offered by the employer's plan and it does not exceed the maximum monthly amount for the respective qualified transportation fringe benefit.

Under section 1.132-9, Q&A 15, an employee may carry over unused compensation reduction amounts to subsequent periods under the plan of the employee's employer. Therefore, as long as the employee has made a valid compensation reduction election and their employment has not been terminated, the employee can begin using the compensation reduction amounts for commuting expenses in future months.

In addition, an employee is permitted to use the unused amounts for other qualified transportation fringe benefits offered under the employer's plan, such as qualified parking, as long as the fringe benefits satisfy all other requirements outlined in Section 1.132-9 of the regulations and the unused amounts do not exceed the maximum monthly limitation for the respective qualified transportation fringe benefit.

Finally, the monthly limitation for the combined amounts of transportation in a commuter highway vehicle and transit passes is separate from the monthly limitation for qualified parking. Thus, the constituent may also elect to use compensation reduction amounts for qualified parking benefits without impacting the combined monthly limitation for transit passes and transportation in a commuter highway vehicle.

I hope this information is helpful. If you have questions, please contact me at

Sincerely,

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Janine Cook  
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Employee Benefits, Exempt Organizations, and  
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