



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Glenn F. Ivey
Member, U.S. House of Representatives
1101 Mercantile Lane, Suite 220
Largo, MD 20774-152 9

Attention:

Dear Representative Ivey:

I'm responding to your June 07, 2024, inquiry on behalf of your constituent, . She asked for guidance concerning the withdrawal of unused funds in a commuter benefit account. I apologize for the delayed response.

Generally, we cannot provide binding legal advice to taxpayers unless they request a private letter ruling as Revenue Procedure 2024-1, 2024-1 I.R.B. 1 describes. However, I can provide the following general information on qualified transportation fringe benefits 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 that an employer provides an employee to be income to the 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:

- transportation in a commuter highway vehicle between the employee's residence and place of employment
- any transit pass, and

- qualified parking

According to Section 132(f)(2), the amount of qualified transportation fringe benefits that an employer provides to an employee that can be excluded from gross income cannot exceed a maximum monthly dollar amount adjusted for inflation. The adjusted maximum monthly excludable amount for 2024 is \$315 per month for qualified parking and \$315 for transit passes and van pooling. An employer can provide an employee both benefits for a monthly excludable total amount of \$630 per month.

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.

Additionally, Section 132(f)(4) provides that employers may provide qualified transportation fringes through compensation reduction agreements. In a compensation reduction agreement, employees may designate a portion of the amount they otherwise would receive as compensation to fund qualified transportation fringe benefits that their employer provides. If the employee uses the compensation reduction amount exclusively to fund qualified transportation fringe benefits, the compensation reduction is excluded from an employee's income and wages for federal tax purposes.

According to Section 1.132-9 Q/A-11 through 15, an employee may cancel a compensation reduction agreement at any time during the year as long as they cancel before the employee is able to currently receive the compensation and before the beginning of the period the qualified transportation fringe will be provided.

According to Section 1.132-9, Q&A 14(d), 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.

According to Section 1.132-9, Q&A 15, when an employee elects to reduce their compensation for a month by an amount that exceeds the qualified transportation fringe benefits actually provided in that month, the employer may apply this excess towards qualified transportation fringe benefits in subsequent months.

Additionally, an employee can use the unused amounts for other qualified transportation fringe benefits offered under the employer's plan. For example, the regulations allow an employee to use unused amounts for qualified parking, as long as the fringe benefits satisfy all other requirements outlined in Section 1.132-

9 and the unused amounts do not exceed the maximum monthly limitation for the respective qualified transportation fringe benefit.

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

Sincerely,

Jason Healey
Branch Chief, Employment Tax Branch 2
(Employee Benefits, Exempt Organizations,
and Employment Taxes)