



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

OFFICE OF THE CHIEF COUNSEL

January 25, 2017

CC:TEGE:EOEG:ET2
GENIN-118824-16

Number: **2017-0007**
Release Date: 3/31/2017

UIL: 132.08-04

Dear _____ :

I apologize for the delay in responding to your request for information dated February 22, 2016. You requested information on the tax treatment of parking benefits available to employees at a specific office location.

A parking policy has been implemented at that location whereby that office contracted for secure parking for its employees in a parking facility near the office. The office pays the parking vendor directly for the parking spots. Employees who wish to use the secure parking must agree, in writing, to reimburse the employer by having the monthly parking fee deducted from their paycheck in the month prior to using the parking. The employees cannot get a refund of the withheld funds if they do not use the parking. The cost of the parking is less than the statutory limit found in Internal Revenue Code (Code) section 132(f)(2)(B), as adjusted by section 132(f)(6). The employees are not given the option of choosing between taxable cash compensation and parking. Accordingly, the employer has not excluded the cost of the parking from the taxable wages of those employees who have elected to use the parking. Instead, the employer simply deducts the cost of the parking from the employees' after-tax wages. Employees who have elected to use the parking spots have asked whether the amounts deducted from their wages for parking should be excluded from their income and wages as a qualified parking benefit.

As a general matter, we cannot provide binding legal advice to taxpayers unless they request a private letter ruling as described in Rev. Proc. 2016-1, 2016-1 I.R.B. 1. However, I may provide the following general information on qualified parking benefits.

Section 61(a)(1) of the Code provides that, except as otherwise provided, gross income means all income from whatever source derived, including (but not limited to) compensation for services, including fees, commissions, fringe benefits, and similar items. Consequently, a fringe benefit provided by an employer to an employee is presumed to be income to the employee, unless it is specifically excluded from income by another section of the Code.

Section 132(a)(5) of the Code provides that gross income does not include any benefit that is a “qualified transportation fringe.” Section 132(f)(1)(C) of the Code provides that “qualified transportation fringes” include qualified parking. Qualified parking includes parking provided to employees on or near the business work premises. Section 1.132-9(b) Q/A 4 of the Income Tax Regulations (Regulations) provides that parking is provided by an employer if:

- The parking is on property that the employer owns or leases;
- The employer pays for the parking; or
- The employer reimburses the employee for parking expenses.

If the employer chooses to reimburse the employee for qualified parking expenses, the employer can do so either by providing the reimbursements in addition to the employee’s regular wages or, alternatively, the employer can provide the reimbursements in place of pay. Reimbursements provided in place of pay are called compensation reduction arrangements. Under compensation reduction arrangements, the employer permits the employees to elect to reduce their taxable compensation in order to receive tax-free reimbursements for parking expenses that the employees have actually incurred.

Arrangements where an employer purchases parking spots from a parking vendor and then, in turn, permits employees who wish to use the parking spots to pay the employer for the parking spots using the employees’ own after-tax compensation do not meet the definition of qualified parking in the Code and Regulations.

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2016-1, § 2.04. If you have any additional questions, please contact our office at

Sincerely,

Lynne A. Camillo
Branch Chief, Employment Tax Branch 2
(TEGE Associate Chief Counsel)