

The Commuter Check® Benefit Solutions program is governed by section 132(f) of the Internal Revenue Code, as amended on June 9, 1998, by Title IX, Section 9010 of the Transportation Equity Act for the 21st Century, Public Law 105-178. The following is a version of the amended tax code section. An official version of the tax law may be found at 26 USC Section 132(f).

Internal Revenue Code Section 132(f) - Qualified Transportation Fringe.

(1) In general. - For purposes of this section, the term "qualified transportation fringe" means any of the following provided by an employer to an employee:

- (A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employees residence and place of employment.
- (B) Any transit pass.
- (C) Qualified parking.

(2) Limitation on exclusion. - The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed-

- (A) \$65 [\$115 in 2008] per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and
- (B) \$175 [\$220 in 2008] per month in the case of qualified parking.

(3) Cash reimbursements. - For purposes of this subsection, the term "qualified transportation fringe" includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1). The preceding sentence shall apply to a cash reimbursement for any transit pass only if a Voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.

(4) No Constructive Receipt. - No amount shall be included in the gross income of an employee solely because the employee may chose between any qualified transportation fringe and compensation which would otherwise be includible in gross income of such employee.

(5) Definitions. - For the purposes of this subsection-

- (A) Transit pass.** - The term "transit pass" means any pass, token, farecard, voucher or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is-
 - (i) on mass transit facilities (whether or not publicly owned), or
 - (ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

(B) Commuter highway vehicle. - The term "commuter highway vehicle" means any highway vehicle-

- (i) the seating capacity of which is at least 6 adults (not including the driver), and
- (ii) at least 80 percent of the mileage use of which can reasonably be expected to be-
 - (I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and
 - (II) on trips during which the number of employees transported for such purposes is at least 1/2 of the adult seating capacity of such vehicle (not including the driver).

(C) Qualified parking. - The term "qualified parking" means 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 by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

(D) Transportation provided by employer. - Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer

(E) Employee. - For the purposes of this subsection, the term "employee" does not include an individual who is an employee within the meaning of section 401(c)(1).

(6) Inflation adjustment.

(A) In General. - In the case of any taxable year beginning in a calendar year after 1999, the dollar amounts contained in subparagraphs (A) and (B) of paragraph (2) shall be increased by an amount equal to -

- (i) such dollar amount, multiplied by
- (ii) The cost-of-living adjustment determined under section I (f)(3) for the calendar year in which the taxable year begins, by substituting "calendar year 1998" for "calendar year 1992".

(B) Rounding. - If any increase determined under subparagraph (A) is not a multiple of \$5, such increase shall be rounded to the next lowest multiple of \$5.

(7) Coordination with other provisions. - For the purposes of this section, the terms "working condition fringe" and "de minimis fringe" shall not include any qualified transportation fringe (determined without regard to paragraph (2)).