Introduction

• Who we are
  • Who is Best Workplaces for Commuters
  • Who is Coalition for Smarter Transportation

• Before we get started
  • A few questions about you

Disclaimer: The following is for informational purposes only. In no way should this presentation be considered tax advice. Please consult your tax attorney or accountant for formal tax advice before making any decisions.
Agenda

Background
- Overview of Qualified Transportation Fringes (QTFBs)
- Background
- How Tax Cuts and Jobs Act changed deductibility

Changes
- Changes
- What’s next with QTFB

Future

What are Qualified Transportation Fringes?
- Internal Revenue Code Section 132(f) excludes up to $270 per month from employees’ gross income for:
  - Transportation in a commuter highway vehicle between the employee’s residence and place of employment,
  - any transit pass,
  - qualified parking,
  - any qualified bicycle commuting reimbursement (only to $20 per month) (suspended until January 1, 2026)

- Commuter Highway Vehicle:
  - 7+ passenger vehicle
  - Used 80% for commuting
  - Carrying at least half capacity

Recognition for WORKPLACES, UNIVERSITIES and SITES

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• Tax Cuts and Jobs Act (TCJA) provides no write-offs are allowed for any commuting related expense except as necessary for ensuring the safety of the employee, effective for transportation and commuting expenses paid or incurred after December 31, 2017.

Tax write-offs are deducted from total revenue to determine total taxable income for a business.

Key Definitions

• The term employee means a common law employee or other statutory employee, such as an officer of a corporation, who is currently employed by the employer (taxpayer).

• Partners, 2-percent shareholders of S corporations (as defined in section 1372(b)), sole proprietors, and independent contractors are not employees of the employer (taxpayer) for purposes of this section.

• The term general public includes, but is not limited to, customers, clients, visitors, individuals delivering goods or services to the taxpayer, students of an educational institution, and patients of a health care facility.
Qualified Parking Defined

• The term “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.

• The term does not include any parking on or near property used by the employee for residential purposes.

General Public Parking

• Parking spaces that are available to the general public but empty are treated as provided to the general public.

• Parking spaces that are used to park vehicles owned by the general public while the vehicles await repair or service by the employer are also treated as provided to the general public.
Parking Facility Defined

• The term **parking facility** includes indoor and outdoor garages and other structures, as well as parking lots and other areas, where a taxpayer provides qualified parking (as defined in section 132(f)(5)(C)) to one or more of its employees.

• The term parking facility may include one or more parking facilities that are in the same geographic location.

Geographic Location Defined

• The term **geographic location** means contiguous tracts or parcels of land owned or leased by the taxpayer.

• Two or more tracts or parcels of land are contiguous if they share common boundaries or would share common boundaries but for the interposition of a road, street, railroad, stream, or similar property.

• Tracts or parcels of land which touch only at a common corner are not contiguous.
Reserved Employee Spaces Defined

- The term reserved employee spaces means the spaces in the parking facility, or the taxpayer's portion thereof, exclusively reserved for the taxpayer's employees.

- Employee spaces in the parking facility, or portion thereof, may be exclusively reserved for employees by a variety of methods, including, but not limited to, specific signage (for example, "Employee Parking Only") or a separate facility or portion of a facility segregated by a barrier to entry or limited by terms of access. Inventory/unusable spaces are not included in reserved employee spaces.

How to determine the amount of parking that is non-deductible?

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Some Basic Rules

• The amount disallowed is based upon expenses, not value

• For commuter highway (vanpool) & transit – the amounts exempted are equal to the amount provided

• If an employer directly pays a third-party for parking – the amount paid is the amount that is not allowed to be deducted

• If an employer provides parking/transit/vanpool as a taxable wage to its employees – it MAY deduct those expenses as wages – but the employee must pay taxes on the value of the parking/transit/vanpool

Three Options to Calculate What Can’t Be Deducted

Qualified Parking Limit Methodology
General Rule Methodology
Cost Per Space Methodology
Qualified Parking Limit Methodology

An employer may opt to assess the amount that is not able to be written off based upon the number of employees who parked multiplied by the maximum monthly QTFB:

- Disallowance amount = Total number of spaces used by employees during the peak period multiplied by the monthly limitation on exclusion for qualified parking ($270) for each month

OR

- Disallowance amount = Total number of employees by the monthly limitation on exclusion for qualified parking ($270) for each month

General Rule Methodology

- If a taxpayer owns or leases all or a portion of one or more parking facilities where its employees park, the disallowance may be calculated using any reasonable method and provides a four-step methodology that is deemed to be a reasonable method.

- An employer (taxpayer) must not use value to determine expense
The table on the next slide shows what costs must be included in the amount that is not excludable.

- If costs are multi-purpose (i.e. property taxes, insurance, security) a 5% rule is used (described later)

- If a parking lot is mixed use (i.e. visitors, shoppers, employees all use the lot) then a formula described in later slides is used to determine what portion of the expenses cannot be written off

- If more than 50% of the lot is used by the general public then its general use is NOT employee parking and

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<td>Rent or Lease Payments</td>
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Total Parking Expenses Allocable to Employee Parking
Sample Annual Operating & Maintenance Costs (2014 $)

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<th>Central Business District</th>
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<td>$500</td>
<td>$443</td>
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5% rule described

- Certain expenses are multi-purpose. For example, a security contract may include security within a building as well as for security in the parking lot. The 5% rules says that 5% of that cost must be applied to applicable parking expenses.

- For the 5% rule to apply the expense must be:
  - Truly multi-purpose
  - The contract or invoice does not explicitly include an amount that pertains specifically to the parking lot
  - The final rule suggests that this also includes leases that include making parking available at a facility
General Rule – The 4-step process

• Step 1 – Calculate disallowance for reserved employee spaces
  • Percentage of reserved spaces * percentage of total parking expenses

• Step 2 – Primary Use Test
  • Determine what percentage of the remaining (non-employee reserved) parking spots are used by employees on a typical day.
    • If that amount is below 50% of the spots available to the employer, then the general purpose of the parking facility is for public use and an employer may write-off all parking expenses from this portion of the formula
    • If the amount is above 50%, then the amount that cannot be written off is based on the proportion of the parking used by employees multiplied by the expenses (outlined in step 4)
Primary Use Test

Primary Use test example 1:
• Employer A has $100,000 in parking expenses
• 100 parking spots available
• No reserved visitor or employee spots
• During peak time, 40 employees parking in the parking facility
As such only 40% of the parking spaces are used by employees
as such the IRS has determined that the general use is the
purpose of the parking facility and an employer MAY write off
$100,000 of expenses

Primary Use Test

Primary Use test example 2:
• Employer A has $100,000 in parking expenses
• 100 parking spots available
• No reserved visitor or employee spots
• During peak time, 75 employees parking in the parking facility –
As such 75% of the parking spaces are used by employees and
employer must use step 3 and step 4 to determine what amount
(in addition to step 1) may not be written off
Four Step To Estimate Nondeductible Parking Expenses

- Step 3 – Calculate reserved nonemployee spaces.
  - Determine the number of reserved nonemployee spaces in relation to the remaining total parking spaces and multiply that percentage by the taxpayer’s remaining total parking expenses.
  
  - The product is the amount of the deduction for remaining total parking expenses that is allowed to be deducted under section 274(a)(4).

Four Step To Estimate Nondeductible Parking Expenses

- Step 4 – Determine the remaining use and allocable expenses of any remaining parking spaces
Example 3 (Primary Use Test)

Employer A has $100,000 in parking expenses
- 100 parking spots available
- 10 reserved employee spots
- 10 reserved visitor spots
- 50 unreserved spots are used for employees

STEP 1 – Reserved employee spaces
- 10 reserved/100 total = 10%
- $100,000 in costs X 10% = $10,000
Example 3 (Primary Use Test)

Employer A has $100,000 in parking expenses
- 100 parking spots available
- 10 reserved employee spots
- 10 reserved spaces for employee
- 50 unreserved spots are used for employees

STEP 2 – Primary use test

- 50 employees used divided by 80 unreserved spots = 62.5%
- General Use Test does not create an exception since the number of spaces used by employees is above 50%

Example 3

Employer A has $100,000 in parking expenses
- 100 parking spots available
- 10 reserved employee spots
- 10 reserved spaces for employee
- 50 unreserved spots are used for employees

STEP 3 – reserved nonemployee spaces

- 10 reserved visitor spaces/100 unreserved spots = 10%
Example 3

Employer A has $100,000 in parking expenses
- 100 parking spots available
- 10 reserved employee spots
- 10 reserved spaces for employee
- 50 unreserved spots are used for employees

**STEP 4 - The remaining use and allocable expenses of any remaining parking spaces**
- 50 employees used/80 unreserved spots = 62.5%
- 62.5% X $8,000 = $5,000

Example 3

- Step 1: 10% of $100,000 = $10,000
- Step 2: 62.5 % = No exception
- Step 3: 10% of $100,000 = $10,000 that may be written off
- Step 4: 62.5% of costs of unreserved spaces may not be written off ($100,000-$10,000 step 1- $10,000 step 3) = $80,000 X 62.5% = $50,000

Total = Step 1 ($10,000) + Step 4 ($50,000) = $60,000 may NOT be written off
Methods to Determine Employee Use

• Methods to determine employee use of the remaining parking spaces may include specifically identifying the number of employee spaces based on actual or estimated usage.

• Actual or estimated usage may be based on the number of spaces, the number of employees, the hours of use, or other measures.

Cost Per Parking Space

• Step 1 = Identify total parking costs
• Step 2 = Identify # of total parking spaces
• Step 3 = Generate cost per parking space
• Step 4 = Identify number of spaces used by employees
• Step 5 = Multiply the number of employees by the cost per space
Additional Notes

- The cost per employee MAY NOT exceed monthly cap per employee (currently $270) – any excess must be considered a taxable wage to the employee
- Independent contractors, partners, 2-percent shareholders of S corporations, sole proprietors ARE NOT considered employees for the calculations above
- Effective Date is 2020 tax year
- Employers can aggregate the owned or leased number of parking spaces in more than one facility in a single geographic location but not in different geographic locations

Impact

- Employers who can get below 50% parking usage can see a huge financial benefit
- Reducing the number of employees who park now has an additional tax advantage
Questions

The Future

• Transit Benefit Ordinances
• Restoring Deductibility of Transit/Vanpool Benefits
• Expanding the Transit Benefit
Benefits of BWC Membership

- National Recognition – Yearly Press Release Announcing List
- Branding - exclusive use of the BWC logo – Download at https://www.bestworkplaces.org/employers/promote/
- Florida employers, Best Sites, and Universities receive free membership ($250 value)
- One Free Seat in the Telework Certificate Program ($138 value)
- One Free Seat - Commuter Choice Certificate Program ($250 value)
- Opportunities for Feature in Spotlight Webinars
- Framed Member Certificate
- One-on-One Consultations from local partners
- Benchmarking Reports, Research, Partner Training and more!

Coming Soon
Qualified
Transportation Fringe Benefit Certificate
An online, self-paced course
BWC National List Release

National List Release Webinar
January 28, 2021 2 PM to 3 PM EST

Register:
https://www.bestworkplaces.org/list-of-bwc-workplaces/campus-2-2/

Thanks for Attending!
Please complete the evaluation at
https://www.surveymonkey.com/r/SkyFalling