

## 2019-2020 IRS Priority Guidance Plan

### Update IRS notice 2018-99 – Parking Benefits

The Coalition for Smarter Transportation respectfully submit the following comments to the Internal Revenue Service's 2019-2020 Priority Guidance Plan:

The Coalition for Smarter Transportation, a group of public and private entities working to integrate technology and innovation into our nation's transportation policy, urges the IRS to make the necessary revisions and updates to IRS notice 2018-99 regarding 'Parking Expenses for Qualified Transportation Fringes Under § 274(a)(4) and § 512(a)(7) of the Internal Revenue Code.'

As currently constituted, said guidance leaves significant open questions that will lead many entities inadvertently in non-compliance. Additionally, without further clarification and update, the guidance unequally enforces elements of the law in a way that disadvantages those entities who provide transit benefits versus those who provide parking benefits. Enforcement and compliance in relationship to the transit benefit is much clearer and easier for employers to follow. Guidance and applicability of the parking benefit remains confusing for many and as such most employers are not complying with the changed law.

Specifically, CoaST urges the IRS to update 2018-99 in the following ways:

- **Provide Relief for Tax-Exempt Organizations** - Adding commuting expenses to a non-profit's Unrelated Business Taxable Income (UBTI) is unfair and incredibly burdensome. Although we are working closely with Congress to amend this provision, the IRS should be urged to use any and all of its authority to eliminate or mitigate the impact this policy will have on non-profit organizations.
- **Amend the Primary Use Test** - Including parking spaces that are generally empty or unused as a part of the 'primary use test' creates an unintended loophole and should be eliminated as it is policy that is not authorized by Congress. We believe in the need to accurately account for the percentage of parking expenses that should be attributed to employee parking. However, inclusion of generally empty and unused spots as a part of that equation is not appropriate.
- **Establish a 'De Minimis' Threshold** - Like other portions of tax law, establishing a de minimis threshold would be beneficial to small businesses.
- **Eliminate 'Any Means Necessary' method of counting cars** - The 'Any Means Necessary' method to determine how many employees park should be replaced, and the additional tax liability should be determined by requiring employers to identify the actual number of people who park. If an employer does not wish to make this calculation, then they should be given the option to assume that 90% of their employees' park at work. Calculating the number of employees who park is not burdensome and many employers already track these figures.



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- **Create Clear Guidance on Bundled Parking** - Guidance from the IRS is needed that offers property managers and employers a better understanding of how to unbundle parking expenses from leases that include parking. The IRS should require land owners/property managers to calculate and identify parking expenses and equitably divide those parking expenses amongst their tenants.

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