Coalition for SMARTER TRANSPORTATION

Tax Reform
Impact on Transportation Fringe Benefits

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WARNING

The slides and presentation are not to be considered tax advice.

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General Overview – Impact to Individual

Pre-tax reform able to receive qualified transportation fringe benefits for:

- Subsidized or pre-tax parking up to $260/month, and
- Subsidized of pre-tax transit/vanpool up to $260/month

  OR

- Subsidized bicycle benefit up to $25/month

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General Overview – Impact to Individual

Post-tax reform able to receive qualified transportation fringe benefits for:

- Nothing has changed for parking or transit/vanpool

BUT:

Employees are taxed (payroll and personal) on any bicycle subsidy.

However, as a result of change, employees may now tax a pre-tax or subsidized parking/transit benefit AND a taxed bicycle subsidy

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General Overview – Non-Profits/Universities

Pre-Tax Reform – The primary tax benefit to Non-Profits and Universities was not having to pay pay-roll taxes (7.65%) on amounts provided pre-tax or subsidized.

Post-Tax Reform – Non-profits and Universities still enjoy payroll tax benefits, however, amounts provided for parking and transit/parking benefits via subsidy and amounts withheld in a pre-tax scenario are considered Unrelated Business Taxable Income (UBTI) and as such are taxed at a rate of 21%

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UBTI Scenario's

The "ACME University" offers a pre-tax parking/transit benefit to its employees:

Avg. Employee withholds $100/month for parking or transit

Pre Tax Reform

University Costs:

None

University Benefits:

$100 * 7.65% = $7.65 per employee/per month

Post Tax Reform

University Costs:

- $100 * 21% = $21 per employee/per month

University Benefits:

- $100 * 7.65% = $7.65 per employee/per month

Net:

Offering the pre-tax benefit costs $13.35 per month as a result of tax reform

***NOTE – IF AN UNIVERSITY OR NON-PROFIT GOT RID OF PRE-TAX PROGRAM AND GAVE AWAY PARKING/TRANSIT – They would STILL be subject to corporate tax on parking they provide and it would cost $21 per month/per employee in this scenario*

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UBTI Scenario's

The "ACME University" offers a subsidized transit benefit to its employees:

Avg. Employee provided $100/month for transit

Pre Tax Reform

University Costs:

$100 per employee/per month

University Benefits:

$100 * 7.65% = $7.65 per employee/per month

Net:

Offering the $100 subsidy actually costs $92.35 per month

Post Tax Reform

University Costs:

- $100 per month/per employee
- $100 * 21% = $21 per employee/per month

University Benefits:

- $100 * 7.65% = $7.65 per employee/per month

Net:

Offering the $100 subsidy costs $113.35 per month as a result of tax reform

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UBTI Scenario's

The "ACME University" offers a <u>subsidized parking</u> benefit to its employees:

Avg. Employee provided $100/month for parking

Pre Tax Reform

<u>University Costs:</u>

$100 per employee/per month

<u>University Benefits:</u>

$100 * 7.65% = $7.65 per employee/per month

<u>Net:</u>

Offering the $100 subsidy actually costs $92.35 per month

Post Tax Reform

<u>University Costs:</u>

- $100 per month/per employee
- $100 * 21% = $21 per employee/per month

<u>University Benefits:</u>

- $100 * 7.65% = $7.65 per employee/per month

<u>Net:</u>

Offering the $100 subsidy costs $113.35 per month as a result of tax reform

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UBTI Scenario’s

The “ACME University” offers free parking to its employees

Value of Parking is $100/spot per month

Pre Tax Reform

University Costs:

Operating/capital costs to maintain the parking spot

University Benefits:

none

Net:

Post Tax Reform

University Costs:

- Operating/capital costs to maintain the parking spot
- $100 * 21% = $21 per employee/per month

University Benefits:

- none

Net:

In theory - Capital and operating costs now must be considered UBTI and taxed at 21%, in addition, employer must pay UBTI tax on value of the parking spot provided to employer

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Parking – Key Questions

Scenario – University/Non-Profit leases or contracts for parking from a third-party

Findings – The amount paid for parking must be added to UBTI

The IRS may also find that if a proper program is not in place, the University/Non-Profit would have that value added to his compensation and taxed personally on that value. Both University/Non-Profit and employee would pay 7.65% payroll tax as a result.

Parking – Key Questions

Scenario – University/Non-Profit owns a parking lot and its used by customers & employees for free

Findings – The IRS has yet to rule on this, but the intent of law seems to provide that under this scenario, the University/Non-Profit would have to valuate the cost of a parking spot based upon land value and then add that value to UBTI. Its unclear if capital/operating improvements would NOT be able to be written off in this scenario.

The IRS may also find that if a proper program is not in place, the employee would have that value added to his compensation and taxed personally on that value. Both employer and employee would pay 7.65% payroll tax as a result.

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Parking – Key Questions

Scenario – Parking spaces are bundled into the cost of leased space

Findings – The IRS has yet to rule on this, but the intent of law indicates that the value of parking would have to be valuated or decoupled from the lease and the amount paid for parking would be added to UBTI.

The IRS may also find that if a proper program is not in place, the employee would have that value added to his compensation and taxed personally on that value. Both employer and employee would pay 7.65% payroll tax as a result.

Parking – Key Questions

Scenario – Employer owns a separate parking lot for only its employees

Findings – The IRS has yet to definitively rule on this, but the application of law is easy to determine and under this scenario, the University/Non-Profit would have to valuate the cost of a parking spot based upon land value and then add that value to their UBTI. Capital/operating improvements would also be added to the UBTI.

The IRS may also find that if a proper program is not in place, the employee would have that value added to his compensation and taxed personally on that value. Both employer and employee would pay 7.65% payroll tax as a result.

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Bottom Line – Key Points

Eliminating transit subsidy/benefit would increase parking demand, thus:

- Increasing land needed for parking and capital/operating costs associated with building and managing parking
- Parking provided to employees taxed at same level as transit – in additional, capital and operating expenses in theory are converted to UBTI

Universities not engaged in Pre-tax Parking or Parking Benefit programs are losing 7.65% in savings.

Additional TID-BITs

Unclear if costs related to administering and/or hiring TPA or transit benefit provider are considered general business expenses and able to be written off or costs related to providing transportation fringe benefits and added to UBTI.

The Solution

Current State of Play

- No substantial/target tax bills rest of CY 2018

Where we are at:

- Need organize data and information to ‘assess the damage & cost’
- Develop large (numerically & geographic) coalition
- Introduce Bi-Partisan Legislation End of CY 2018 or Immediately in new Congress

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HR 6037 – Non-Profits Support ACT

Congressman Conaway (R-TX) – Non-Profits Support ACT – HR6037

Grassroots Campaign Provided by Coalition for Smarter Transportation

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