NYC Commuter Benefits FAQ

January 1, 2016

As of January 1, 2016, employers with 20 or more full-time, non-union employees in New York City must offer qualified pre-tax transportation benefits to their workers.

General information

What are commuter benefits programs?

Commuter benefits programs are employer-provided voluntary benefit programs that allow employees to reduce their monthly commuting expenses by using pre-tax income to cover certain transportation costs.

What is the effective date of the New York City law?

January 1, 2016.

Which employers must offer commuter benefits?

Private employers with 20 or more full-time, non-union employees working in New York City.

What is the maximum monthly amount that can be deducted from an employee's pre-tax income?

Amounts that can be excluded from gross income are subject to monthly maximum caps of $255 per month in 2017.

Compliance

Are employers required to give their full-time employees a written offer of commuter benefits?

Yes, employers must give their full-time employees a written offer of the opportunity to use pre-tax income to purchase qualified transportation fringe benefits. A sample of the notice employers may use for this purpose can be found here: https://www1.nyc.gov/assets/dca/downloads/pdf/about/CommuterBenefits-EmployerComplianceForm.pdf

How long must an employer keep records that their employees were offered the option to enroll?
Employers must retain records for two years that demonstrate that (1) all eligible employees are offered transportation benefits and (2) indicate whether employees accepted or declined benefits.

What are the penalties for violating the commuter benefits law?
A violation carries a penalty of between $100 and $250.

Covered employees

Which employees are eligible for these commuter benefits?
Any full-time employee of a covered employer who averages at least 30 hours of work per week is eligible for the benefit. The law specifies that if the number of workers drops below 20 full-time employees, the benefit must be continued for the remaining eligible employees for the duration of their employment.

What if the employees are covered by a collective bargaining agreement (CBA)?
Employers whose employees are covered by a CBA are exempt from the law. However, if the employer has an additional 20 or more full-time employees who are not covered by the CBA, the employer must offer these employees commuter benefits.

Administration

How do employees sign up for a commuter benefits program?
Employers must provide their eligible employees with the appropriate enrollment materials to participate in the employer-administered commuter benefits program or a third-party provider's commuter benefits program.

What is Cast & Crew's role?
Cast & Crew assists clients with their compliance efforts by making pre-tax payroll deductions and remitting the amount deducted back to the client via their payroll invoice. Production typically handles employee enrollment, while a third-party administrator provides benefit services. The New York City Consumer Affairs website (https://www1.nyc.gov/site/dca/about/commuter-benefits-FAQs.page#6) maintains a list of third-party administrators. At this time, Cast & Crew is unable to make payments directly to third-party commuter benefit administrators.

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Can an employer administer a commuter benefits program without a third-party provider?
Yes, however an employer who decides to manage their own commuter benefit program should consult a tax advisor and an attorney.

May an employee choose to participate at a later date after initially declining to enroll?
Yes.

Are employers required to provide parking as a pre-tax benefit?
No, NYC does not require employers to offer parking as part of their commuter benefits program.

Does the law cover carpooling?
No, carpooling is not covered.

If you have any questions about the information contained in this document, please contact us at LaborRelations-Questions@castandcrew.com.

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