

## Congress Fails to Extend Transit Subsidy; Employees Face Additional Taxable Income in 2012

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By Richard J. Birmingham

Under the American Recovery and Reinvestment Act (ARRA), the monthly income tax exclusion for employer-provided transit benefits and vanpooling benefits was \$230, effective from March 2009 through December 2010. The Tax Relief and Job Creation Act of 2010 extended this benefit through December 2011. With the failure of Congress to act on a further extension of these benefits this year, the benefit exclusion will shrink to \$125 per month effective Jan. 1, 2012.

The dollar limit decrease will have an immediate effect. Because this exclusion is determined on a monthly basis, employers must report the value of such benefits above the \$125 per month exclusion as income to the employee and withhold the appropriate taxes.

### Example

- Employer provides an employee with a transit pass having a monthly value of \$175. Previously, the benefit was tax free to the employee. Effective Jan. 1, 2012, the employer will impute \$50 per month in income to the employee (\$175 minus \$125 exclusion) and must withhold the appropriate taxes.

Congress may take action in February of 2012 to increase the transit pass and vanpool benefit exclusion. In the interim, however, employers should report and withhold on the value of any monthly transit or vanpool subsidy in excess of \$125. Please note that the value of the pass to be reported is the fair market value of the pass, which may differ substantially from the amount that the employer or the employee pays for the pass. In addition, employers should immediately notify employees of this change in the tax treatment of their transit pass and vanpool benefit. Ironically, the monthly tax exclusion for employer-provided parking benefits increases to \$240 for 2012, while the transit benefit decreases to \$125.

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