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## IRS Again Delays Effective Date of Guidance on Transportation Benefit Debit Cards

*The IRS has once again delayed the effective date of changes made by Revenue Ruling 2006-57 with respect to the use of smartcards, debit and credit cards, and other electronic media to provide qualified transportation fringe benefits under IRC Section 132(f). The latest delay is until January 1, 2012. Employers and employees may continue to rely on the Revenue Ruling 2006-57 to provide cash reimbursement for transit passes when the only available voucher or similar item is a terminal-restricted debit card.*

### Background

Section 132(f) of the Internal Revenue Code excludes qualified transportation fringe benefits from an employee's gross income, subject to certain limits. "Qualified transportation fringe benefits" include transit passes, qualified parking, and the cost of transportation in a commuter highway vehicle between home and work. An employer can provide these benefits directly by purchasing transit passes and distributing them to employees or indirectly by distributing vouchers that are accepted by mass transit operators as fare or can be exchanged for fare.

An employer can reimburse transit pass expenses in cash only if a voucher or similar item that may be exchanged for a transit pass is not readily available for direct distribution to the employee. All cash reimbursements must be made under a bona fide reimbursement arrangement. A bona fide reimbursement arrangement is one that only provides for expenses that have already been incurred and requires some type of employee substantiation. Employee substantiation is not required for in-kind distribution of transit passes or vouchers.

[Revenue Ruling 2006-57](#) sets out how the Section 132(f) rules apply when an employer provides transit benefits to employees through electronic media such as smartcards and debit cards. (See our December 14, 2006 [For Your Information](#).) Specifically, the Revenue Ruling provides that as long as they can only be used to purchase fare for a transit system and for no other purpose, smartcards, debit cards and other electronic media that the employer funds and distributes to employees generally will be treated as vouchers for which no employee substantiation is required. The Ruling also makes clear that debit cards or other electronic media that may be used to purchase items other than transit passes cannot be treated as vouchers.

The effective date for Revenue Ruling 2006-57 was originally set for January 1, 2008, with employers allowed to rely on the Ruling for transactions occurring before that date. The IRS also provided that it would not challenge the ability of employers to provide qualified transportation fringes in the form of cash reimbursement for transit purposes when the only available voucher or similar item is a "terminal-restricted" debit card.

Notice 2007-76 delayed the effective date of the Ruling to January 1, 2008 after learning that some transit systems told IRS that they needed additional time to modify their technology so that it was compatible for vouchers as set forth in Revenue Ruling 2006-57. In Notice 2008-74 and Notice 2009-95, the IRS further delayed the effective date to January 1, 2010 and then to January 1, 2011. In all cases, employers and employees were allowed to continue to rely on the Revenue Ruling.

## Notice 2010-94

The IRS has now issued [Notice 2010-94](#), which delays the effective date for compliance with Revenue Ruling 2006-57 for an additional year – until January 1, 2012. The Notice also extends employer and employee reliance on the Revenue Ruling.

## Conclusion

Buck's consultants are available to discuss the impact of this delay on your current programs or to assist you in establishing qualified transportation fringe benefit programs for your employees.

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*This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.*