FYI®
For Your Information®

Congress Extends Transit Benefit Tax Parity, but Only for 2014

Congress passed legislation this week that retroactively increased the 2014 transit benefit monthly limit from $130 to $250. However, the legislation does not change the 2015 transit benefit limit, which remains at $130. Employers may be required to adjust 2014 tax withholding and reporting to reflect this increase.

Background

IRC section 132 provides that "qualified transportation benefits" are excluded from gross income. Under the law as originally enacted, the limit for transit benefits was lower than the limit for qualified parking. Congress has enacted legislation several times in the past, including in 2013, that provided parity between transit and parking benefit limits. Congress had not yet done so, however, for 2014; the maximum amount that an employee could exclude from gross income and wages for 2014 was $130 per month for transit benefits and $250 per month for qualified parking.

The IRS previously announced the 2015 monthly limits for qualified transportation fringe benefits that again permit a maximum of $130 per month for transit benefits and $250 per month for qualified parking. (See our October 30, 2014 *For Your Information*.)

Qualified Transportation Fringe Benefit Limits

On December 16, Congress passed the Tax Increase Prevention Act of 2014 which extended from 2013 parity for transit and parking benefits by increasing the transit limit from $130 to $250 for 2014. The president is expected to sign this bill shortly.

	2015	2014
Commuter highway vehicle and transit pass (transit)	$ 130	$ 250
Qualified parking	$ 250	$ 250

This parity treatment only applies for 2014, and not 2015. Therefore, while Congress may extend the parity treatment for 2015 in future legislation, employers should still limit the 2015 pre-tax elections for transit benefits to $130. The legislation also does not allow employees to make retroactive pre-tax transit benefit elections for 2014.

> **Comment.** Some employers may have allowed employees to make after-tax elections in 2014 that exceeded the prior $130 limit. It is possible that the IRS will require that employers refund any excess FICA taxes that were withheld for 2014 and adjust the 2014 Form W-2 to reflect the correct income amount for federal income tax purposes. The IRS required similar adjustments when the transit limit was increased retroactively for 2012. (See our January 17, 2013 *For Your Information.*) Employees cannot retroactively increase their transit elections, however, so employers that did not allow after-tax transit benefit elections in 2014 would not have withholding and reporting adjustment obligations.

In Closing

Employers should consider communicating to employees that the increase in the transit limit is only for 2014 and monitor expected future IRS guidance that requires adjustments to 2014 tax withholding and reporting.