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New Jersey employers must offer pretax transit benefits by March 1

Last year, New Jersey became the first state to enact a law requiring employers to offer a pretax transportation fringe benefit. The transit benefits law, which took effect upon enactment, is currently slated to become operative on March 1, 2020. Employers should review their current benefit offerings to ensure compliance.

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Background

Federal law allows employers to offer employees the opportunity to pay for qualified commuting expenses with pretax dollars. Section 132(f) of the Internal Revenue Code currently provides an exclusion from an employee's gross income of up to \$270 per month in "qualified transportation fringe benefits," including transit passes, qualified parking, and the cost of transportation in a commuter highway vehicle between the employee's home and work.

Last year, New Jersey became the first state to mandate a pretax transportation fringe benefit for employees. With limited exceptions, the New Jersey Transit Benefits Law ([Senate Bill No. 1567](#)) requires employers with at least 20 employees to offer them the opportunity to purchase qualified transportation services with pretax dollars at the maximum levels federal law allows. The new law, which took effect upon enactment in March 2019, provided that it would remain inoperative until the earlier of the effective date of implementing rules and regulations or March 1, 2020. (See our *FYI* from [April 18, 2019](#).)

March 1 deadline approaches

The Transit Benefits Law authorizes New Jersey's Commissioner of Labor and Workforce Development (NJLW) to enforce the new mandate and to impose penalties on employers that fail to offer a pretax transportation fringe benefit, beginning March 1, 2020. Notably, employers will not have to offer the benefit to employees who were covered by a collective bargaining agreement in effect on March 1, 2019 until the agreement expires.

When enforcement begins, penalties for noncompliance will range between \$100 and \$250 for a first violation. However, employers will have 90 days to offer a pretax transit benefit before a penalty is imposed. After that window closes, each additional 30-day period in which the employer fails to offer the benefit will constitute a subsequent violation, subject to a penalty of \$250.

In closing

New Jersey employers that are required to offer pretax transportation fringe benefits should review their current benefit offerings to ensure compliance and monitor the NJDOL website for rules and regulations on the administration and enforcement of the new law as well as any additional requirements.

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