

IRS Guidance on Retroactive Increase in Qualified Transportation Benefits

The IRS has released [guidance](#) to address employers' questions about the retroactive increase in the monthly income exclusion for certain transportation benefits enacted as part of the American Taxpayer Relief Act of 2012 on January 2, 2013. The Act increased the monthly transit benefit exclusion from \$125 per participating employee to \$240 per participating employee, to restore parity between employer parking and transit subsidies. The increase applies not only for 2013 but also, retroactively, for 2012. The IRS guidance is intended to clarify and simplify the filing and reporting obligations of employers.

Special Procedure for Withholding Adjustments

Employers that originally reported as wages excess transit benefits (the amounts above \$125 and below \$240 per participating employee per month), and as a result overwithheld income taxes and FICA taxes, would normally be required to file Forms 941-X for any quarters in which they overwithheld. Under a special procedure, employers that have not yet filed their fourth quarter Form 941 may subtract the overcollected taxes on the fourth quarter Form 941 instead of filing Forms 941-X. To use this special administrative procedure, the employer must reimburse its employees for the FICA tax overpayments on or before the date it files the fourth quarter Form 941. If the employer has already filed the fourth quarter Form 941 or the employer hasn't reimbursed all employees for the overwithheld FICA taxes, the employer must file Form 941-X for each quarter in which the employer overwithheld.

Procedures for Form W-2 Reporting

Employers that have *not yet* sent W-2s to their employees should take into account the increased transit exclusion when calculating the amounts to be reported in boxes 1, 3 and 5. Employers that have reimbursed employees for the overcollected FICA taxes should correspondingly reduce the amounts of withheld tax reported in boxes 4 and 6. In all cases, employers must report in box 2 the amount of income tax actually withheld during 2012.

Employers that have *already* sent W-2s to employees but have not yet filed them with the Social Security Administration may reimburse employees for overcollected FICA taxes before filing with the SSA. The employer should check "Void" on the old Forms W-2 and send new Forms W-2 to employees (writing "CORRECTED" on the employee's copy) and to the SSA.

Employers that have *already filed* 2012 Forms W-2 with SSA will need to file corrected reports on Form W-2c to take into account the increased exclusion for transit benefits.

Further Information

For further information on tax filings and employee reimbursements related to the retroactive increase in excludible transit benefits, please contact any member of Ropes & Gray's [benefits practice group](#).