

# CLIENT ALERT

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IMPORTANT  
REMINDER

**Last March, every NJ employer with more than 20 employees, including part time employees was required to offer “pre-tax transportation fringe benefits” to their employees.**

On March 1, 2019, New Jersey has become the first state to mandate that certain employers provide pretax transit benefits to their employees. While the Law became effective immediately with Governor’s signature of Senate Bill 1567, it is considered “inoperative” (meaning, no penalties will be assessed against employers for noncompliance) until the earlier of March 1, 2020, or the effective date of implementing rules and regulations by the New Jersey Commissioner of Labor and Workplace Development.

APPLICABLE EMPLOYERS are NJ businesses that employ more than 20 employees who are subject to state’s unemployment compensation laws. The effective date of the Law for collective bargaining units is tied to the dates of their agreements. Employers with 20 or more employees that have union employees must offer Pre-tax Transit Benefits to their union employees only once their collective bargaining agreements that were in effect on March 1, 2019, expire.

APPLICABLE EMPLOYEES are those full and part-time employees working in NJ. NJ Transit Information for Employees ([Commuter Tax Benefits](#) | [NJ TRANSIT](#) | [New Jersey Transit Corporation](#) | [New Jersey](#))

APPLICABLE BENEFITS - The government already allows employers to offer this fringe benefit, which was established in 1993 as part of the federal tax code section 132(f). Commuter benefits were meant to provide tax incentives to employees to encourage their use of mass transportation, with the goal of reducing traffic congestion and improving air quality. Under this program benefits include Mass Transit costs and Van Pool expenses as well as a Parking Benefit. Cabs and other ride share programs do not qualify under this program unless they are part of a program like UberPool or LyftLine. The 2021 levels are the same as 2020, \$270/month for qualified parking and a separate benefit of \$270/month for van pools and mass transit expenses. Election may be made into one or both programs. This money is deducted from the employee’s pay on a pre-tax basis, so employees save on taxes and the employers save based on their FICA Match.

THIS IS NOT PART OF A FLEXIBLE SPENDING PLAN, this program falls under IRS code, Section 132(f), Qualified Transportation Fringe Benefit. There are no eligibility requirements and no specific enrollment periods. Employees may opt in or drop out as they wish and may change their deductions over the course of the year. The employee may use only what is accrued in their account but may not use more in any month than the monthly maximum as

defined annually by the IRS. If an excess occurs in one month, the employee should consider changing their elections for the following month(s).

AN EMPLOYEE'S MONEY IS FORFEITED for the transportation account at the time of employment termination or employee ineligibility. Reimbursements for the Parking Benefit may be made for up to 90 days beyond the termination date for only those parking expenses that were incurred prior to termination.

THE FINE FOR NON-COMPLIANCE will be between \$100 and \$250 for the first violation. An employer has 90 days from the date of the violation to offer the pre-tax transportation fringe benefit program before the fine is imposed. After 90 days, each additional 30-day period in which an employer fails to offer a pre-tax transportation fringe benefit is a subsequent violation subject to a \$250 penalty.

BEST PRACTICES Attached to this email is a sample announcement that you may make changes to to accommodate your company. We recommend requiring a signature by all employees either to participate or waive enrollment into the program. This announcement should also become part of your new hire and open enrollment paperwork. Please note that this is not an insurance product, but a benefit under tax code. We do not warrant that this Client Alert or your use of the sample document completes your obligation under this law. We recommend that you review this with your corporate accountant to ensure full compliance.

***Disclaimer:***

***This notification is provided as for informational purposes only and is not meant to advise you of your entire obligations under this law/acts, nor to serve as legal advice. If you would like more complete information, please do not hesitate to contact our office, your accountant or your attorney.***