

LEGAL UPDATE

Final Regulations Issued for Transportation Fringe Benefits

On Dec. 16, 2020, The U.S. Treasury Department and Internal Revenue Service published [final regulations](#) on the deduction for qualified transportation fringe (QTF) expenses, following changes made by the Tax Cuts and Jobs Act (TCJA). The final regulations became effective upon publication and replace proposed regulations and interim guidance provided in [IRS Notice 2018-99](#).

The Tax Cuts and Jobs Act

The TCJA, passed in 2017, generally disallows employer deductions for QTF expenses provided to their employees and for expenses incurred providing transportation for commuting (except as necessary for employee safety). Qualified transportation fringe benefits are defined by Section 132(f) of the Internal Revenue Code as transportation in a commuter highway vehicle between home and work, any transit pass, qualified parking and any qualified bicycle commuting reimbursement (suspended by the TCJA, effective Dec. 31, 2017 – Jan. 1, 2026).

The Final Regulations

Key issues addressed by the final regulations include:

- If an employer pays a third party for its employees' QTFs, the amount disallowed is the taxpayer's total annual cost paid to the third party;
- A general rule and three simplified methodologies to determine the amount of nondeductible parking expenses when a parking facility is owned or leased by the employer;
- The deduction disallowance for providing employees transportation in a commuter highway vehicle and transit pass QTFs; and
- Exceptions to the QTF deduction disallowance.

Highlights

Five Percent Rule

Up to five reserved employee parking spaces are exempt if they represent 5% or less of the total parking spaces.

Remote Parking

The disallowance does not apply to parking provided in a rural, industrial or remote area with no commercial parking.

Employee Safety

Transportation required by unsafe conditions for the employee is not subject to the disallowance.

Employer deductions for qualified transportation fringe benefits and transportation for commuting were removed by the Tax Cuts and Jobs Act.

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