

## **SALT ALERT - NYC TO REQUIRE EMPLOYERS TO OFFER PRE-TAX TRANSIT BENEFITS**

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## **SALT Alert - NYC to Require Employers to Offer Pre-tax Transit Benefits**

On October 20, 2014 New York City Mayor Bill de Blasio signed into law the Affordable Transit Act (Intro 295-A), which will require employers in the city to offer pre-tax transit benefits in 2016. Employers that do not already offer these benefits will need to ensure that they have a qualified transportation benefit program in place when the new law takes effect on January 1, 2016. The law applies to employers in the city with 20 or more full-time employees. For purposes of this ordinance, a full-time employee is defined as someone who works on average, 30 or more hours per week.

### **Qualified Transit Benefits**

Section 132(f) of the Internal Revenue Code excludes “qualified transportation fringe benefits” from an employee’s gross income, subject to certain limits. Qualified transportation fringe benefits include transit passes, qualified parking, and the cost of transportation in a commuter highway vehicle between home and work. The 2016 monthly limits under section 132(f) are \$130 for transit passes and commuter highway vehicle costs, and \$255 for qualified parking expenses.

### **Covered vs. Exempt Organizations**

#### **Covered**

Companies that are headquartered outside of New York City, but maintain an office within any of the five city boroughs, will be required to offer the benefit.

Non-profit companies are **not** exempt from the ordinance unless they meet other criteria noted below.

Employers with 20 or more full-time employees who are not covered under a collectively-bargained agreement must offer the transit benefit to those employees. In other words, unionized employees do not count towards the 20 or more employee threshold.

#### **Exempt**

Federal, state and local government agencies are exempt from the ordinance.

Those employers where a collectively-bargained agreement exists between the employer and any group of employees, except for exclusions noted above, are exempt.

Any employer not required by law to pay federal, state or local payroll taxes are also exempt.

## Penalties for Non-Compliance

There is a six-month grace period on the application of the ordinance, giving affected employers until July 1, 2016 to comply. Employers that are not in compliance by that date are subject to penalties ranging from \$100-\$250 for a first-time violation and subsequent penalties of \$250 for every 30 days of non-compliance. This is a per-company penalty as opposed to a per-employee penalty. Upon notice of the penalty, employers will be given 90 days to comply in order to avoid paying the penalty.

## For more information

If you have questions about this alert, please contact [Steven P. Bryde, JD](#), Principal in the State and Local Tax Consulting Practice, by phone at (212) 503-8806 or by email at [sbryde@markspaneth.com](mailto:sbryde@markspaneth.com) or any of our [Marks Paneth professionals](#).