

IRS provides guidance to employers for applying the retroactive increase in 2014 excludable transit benefits

February 2, 2015 deadlines approach

January 9, 2015

In brief

Notice 2015-2 provides guidance to employers with respect to section 103 of the Tax Increase Prevention Act of 2014 (TIPA), which retroactively increased the monthly transit benefit exclusion under section 132(f)(2)(A). TIPA increased the exclusion amount from \$130 per participating employee to \$250 per participating employee for the period of January 1, 2014 through December 31, 2014. Many employers experienced a similar retroactive increase that occurred in January 2013 through the American Taxpayer Relief Act (ATRA) for monthly transit benefits in 2012. Consistent with the IRS approach in 2013, the Notice is intended to reduce filing and reporting burdens. To that end, it provides employers additional information needed to understand their requirements relative to the retroactive application of the increased exclusion for 2014. Employers are facing February 2, 2015 deadlines for both the fourth quarter Form 941, *Employer's Quarterly Federal Tax Return*, and for issuing Forms W-2, *Wage and Tax Statements*, to employees. The Notice provides a special administrative procedure for employers to use in filing fourth quarter Form 941 to reflect changes in the excludable amount for transit benefits provided in all quarters of 2014, and in preparing Forms W-2. The special procedures mirror the guidance outlined in Notice 2013-8 relating to the retroactive increase to the monthly benefit exclusion for calendar year 2012, but the 2014 special procedures include a few additional nuances.

In detail

Qualified transportation fringe benefits, including monthly transit passes, are excluded from gross income pursuant to Section 132(a)(5). The exclusion applies whether the employer provided the transit benefits out of its own funds or whether the transit benefits were provided through salary reduction arrangements. Amounts that are excluded from gross income under section 132

are also excluded from federal income tax, social security and Medicare (FICA) taxes, and the Additional Medicare tax. Prior to enactment of TIPA, the adjusted maximum monthly excludable amount for 2014 for these transit benefits was \$130. TIPA amended section 132(f)(2) to increase the maximum monthly excludable amount for transit benefits effective retroactively beginning on January 1, 2014.

This increase does not apply to mass transit benefits on or after January 1, 2015. The applicable statutory limit for 2015 is \$130. With respect to salary reduction arrangements, employees may not retroactively increase their compensation reduction for 2014 to take advantage of the increased excludable transit benefits.

Corrections of overpayments of federal income, FICA, and Additional Medicare taxes can be complex. The manner of the correction depends on when the error was ascertained and whether the relevant calendar year, in which the wages being adjusted were earned, has closed. Employers will be able to follow the normal procedures applicable to make corrections under the Notice. However, the Notice affords employers that have not filed their fourth quarter Form 941 for 2014 an option to use a “Special Administrative Procedure” that is different from the usual correction procedures and that employers may find less burdensome in implementing in their correction process.

Special administrative procedure

Employers that originally included excess transit benefits (over \$130) in wages and withheld federal income, Additional Medicare, and FICA taxes would normally be required to file Form 941-X for each quarter of 2014 to correct the error. To reduce the administrative burden associated with this approach, the Notice provides a special administrative procedure for employers that have not yet filed their fourth quarter Form 941 for 2014. Employers that would like to use this special administrative procedure must repay or reimburse their employees the overcollected FICA tax and Additional Medicare tax (but not withheld income taxes) on the excess transit benefits for all four quarters of 2014 on or before filing the fourth quarter Form 941. Significantly, employers using this special

procedure do not need to obtain written statements from their employees confirming that the employee did not make a claim (or if the employee did make a claim, the claim was rejected) and will not make a claim for refund of FICA tax overcollected in a prior year. Further, such employers will avoid having to file Forms 941-X, and will also avoid having to file Forms W-2c as discussed below.

Normal procedures apply if the special administrative procedure is not available

Employers that have filed the fourth quarter Form 941 or that have not repaid or reimbursed affected employees must follow normal correction procedures using Form 941-X for each quarter in 2014 that needs to be adjusted. Employers must first repay or reimburse the employees or, for refund claims, secure consents from their employees.

Forms W-2

Employers that have not furnished 2014 Forms W-2 to their employees should take into account the increased exclusion for transit benefits in calculating the amount of wages reported in box 1, Wages, tips, other compensation; box 3, Social security wages; and box 5, Medicare wages and tips. Specific correction steps must be followed with respect to Box 2, 4 and 6 depending on the whether the employer is using the special administrative procedures or the normal procedures.

Employers that have already filed 2014 Forms W-2 with the Social Security Administration will need to file Forms W-2c, Corrected Wage and Tax Statement, to take into account the increased exclusion for transit benefits.

The takeaway

TIPA’s retroactive increase of the transit benefit exclusion requires every employer that provided transit benefits in 2014 to take action to ensure that changes have been implemented. The procedures an employer will use to effect the retroactive transit benefit exclusion depend in significant part on where the employer is in its 2014 payroll tax reporting process. Employers that have not yet filed the fourth quarter Form 941 may, prior to the February 2, 2015 filing deadline, take advantage of the special administrative procedure provided in the Notice that allows employers to repay or refund the excess FICA and Additional Medicare taxes to affected employees and to consolidate all adjustments into the fourth quarter return. In every scenario, the implementation of TIPA’s retroactive increase of the transit benefit exclusion requires employers that provided these transit benefits to employees to ensure that excess FICA amounts have been repaid or refunded to employees and that the quarterly Forms 941 and Forms W-2 and W-3 properly reflect the increased exclusion.

Let’s talk

For more information how these developments may affect your business or to discuss further, please contact:

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