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IRS Confirms Deduction Denial for Qualified Transportation Benefits

Under the Tax Cuts and Jobs Act (the "Act") employers are no longer allowed to take a deduction for qualified transportation fringe benefits provided to employees (other than qualified bicycle commuting reimbursements which are paid or incurred between 2018 and 2025). The loss of the deduction applies to (1) employer-provided qualified transportation benefits, like paid parking, regardless of whether the benefit is paid directly or reimbursed by the employer, and (2) any qualified transportation benefit which is paid by the employee on a pre-tax basis through a salary reduction agreement. Initially, some questioned whether this provision is intended to prevent an employer from taking a deduction for wages used by an employee to pay for qualified transportation benefits on a pre-tax basis. The IRS confirmed that this is the intent in Publication 15B, Employer's Tax Guide to Fringe Benefits (for use in 2018), which it released on March 6, 2018.

The Act does not impact the tax treatment for employees of qualified transportation fringe benefits provided by an employer (other than qualified bicycle commuting reimbursements). As a result, employers may still sponsor plans which provide qualified transportation fringe benefits (e.g., parking, transit and vanpooling benefits) to employees on a nontaxable basis. While employers have lost the deduction for qualified transportation fringe benefits, the deduction is worth less now that the maximum corporate tax rate has been reduced by the Act to 21%. At the same time, the value of the income and employment tax exclusion for employees remains the same, and employers may still benefit from the FICA tax savings on amounts used by employees to pay for qualified transportation fringe benefits on a pre-tax basis.