



American Payroll Association

Government Relations • Washington, DC

December 14, 2015

The Honorable Kevin Brady
Chairman, Committee on Ways and Means
U.S. House of Representatives
301 Cannon House Office Building
Washington, DC 20515

Re: Commuter Benefit Parity and Retroactive Implementation

Dear Chairman Brady:

As the U.S. House of Representatives considers equitable treatment for commuters through the *Commuter Benefit Parity Act of 2015* (H.R. 990), the American Payroll Association (APA) urges you to apply the tax benefit permanently, indexed for inflation, and not to apply the benefit retroactively as proposed in a short-term tax extender option, the Amendment to the Senate Amendment on H.R. 34, section 103, *Tax Increase Prevention and Real Estate Investment Act of 2015*.

This legislation is extremely important to payroll professionals and taxpayers. Applying the benefit retroactively fails to help the majority of individuals it seeks to help and causes actual hardship to companies that offer commuter benefits, especially the individuals responsible for accurately administering the tax benefits. As a monthly benefit, the money is already spent. Employees cannot go back and increase their withholdings to the allowable limits. Some employers may simply refuse to apply the benefit retroactively because of the administrative burden. This is the third year that Congress is considering a retroactive extender bill without consideration of the resources employers must allocate for implementation.

APA is a nonprofit professional association with more than 20,000 members across the United States. Most of our members process the payroll for their employers, while some members work for payroll service providers who in turn process the payrolls of another 1.5 million employers, equivalent to one-third of the private-sector workforce. Payroll professionals are responsible for the administrative task of properly withholding and remitting state and federal taxes. No one is more familiar with the responsibility and difficulty of offering disparate benefits to employees and correcting the disparity retroactively.

For an employer to implement the commuter parity legislation retroactively, they must first identify which employees took advantage of employer-offered benefits and determine the amount paid to each employee. A few companies may be able to manage this electronically by generating a report, but this may not be easy to design when each employee may have received a different amount or the program is managed by a third party. For most companies, this must be performed manually. For companies with thousands of employees, reviewing paychecks for each employee back to January 2015 requires significant resources.

Once the employees are identified and benefit amounts determined, an employer must then calculate the tax reimbursement amounts for each employee. Because of the time the process will take (and we are already in the middle of December), employers will not likely be able to make the adjustment in time for Forms W-2, thus requiring corrections through Forms W-2c. In addition, employers must go back and recalculate quarterly IRS taxes for Forms 941 and state and local tax forms. Again, because we are already at the end of the year, most employers will not be able to make the adjustment on the fourth quarter report through an IRS special procedure, but will need to file Forms 941-X and state and local equivalents starting with the first quarter. For larger companies, all of these procedures and adjustments will require an explanation to outside auditors. This also subjects an employer to increased scrutiny by the IRS and state and local tax authorities, especially with the IRS's new program, the *New Early Interaction Initiative*.

Further, Congress, President Obama, and the IRS are pushing employers to complete certain information forms, such as Forms W-2, sooner to prevent identity theft and fraud. The added burden of retroactive tax benefits prevents this from happening.

APA strongly supports parity in tax benefits, but wants to ensure that implementation makes sense. We urge Congress to pass permanent commuter benefit parity legislation as forward-looking legislation.

Sincerely,



William Dunn, CPP
Director, Government Relations

Cc Speaker Paul D. Ryan
Majority Leader Kevin McCarthy
Democratic Leader Nancy Pelosi
President Pro Tempore Orrin Hatch
Majority Leader Mitch McConnell
Democratic Leader Harry Reid