COMPLIANCE OVERVIEW

New Tax Law Includes Changes for Employee Benefits

OVERVIEW

On Dec. 22, 2017, President Donald Trump signed into law the Tax Cuts and Jobs Act (Act). The Act makes significant changes to the federal Internal Revenue Code (Code), including changes that impact employee benefits. Effective for 2018:

- Employers cannot deduct expenses associated with qualified transportation fringe benefit programs;
- Employees cannot exclude bicycle commuting reimbursements from their gross income; and
- Moving expense reimbursements are not deductible for employers and cannot be excluded from employees' gross income.

In addition, effective for 2018 and 2019, the Act creates a federal tax credit for employers that provide paid family and medical leave.

ACTION STEPS

- Because most of the Act's provisions became effective on Jan. 1, 2018, employers should start working with their tax advisors to determine how the tax changes will impact their businesses.

HIGHLIGHTS

- Employers can no longer take a tax deduction for qualified transportation fringe benefits.
- Except for bicycle commuting reimbursements, qualified transportation benefits are still nontaxable to employees.
- Employers that provide paid family and medical leave may qualify for a temporary tax credit.

IMPORTANT DATE

- **January 1, 2018**
  Most of the Act's tax reform provisions became effective.

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QUALIFIED TRANSPORTATION FRINGE BENEFITS

Code Section 132 allows employers to provide certain transportation benefits to employees on a tax-free basis. These benefits include qualified parking, transit passes, and transportation to and from work in a commuter highway vehicle ("vanpooling"). Prior to 2018, bicycle commuting reimbursements also qualified for this tax exclusion.

Qualified transportation expenses paid by either the employer or employee can be excluded from an employee's gross income, up to certain limits. For 2018, the tax exclusion limits are $260 per month for qualified parking expenses and $260 per month for transit passes and vanpooling expenses, combined.

Beginning in 2018, the Act **eliminates the employer deduction** for expenses associated with a qualified transportation fringe benefit program. The Act also eliminates the deduction for any expenses incurred in connection with providing transportation to an employee in connection with travel between the employee's residence and place of employment, except as necessary for ensuring the employee's safety.

Although the employer tax deduction for qualified transportation fringe benefits has been eliminated, employers may still allow employees to pay their own transit or parking costs on a pre-tax basis (up to the exclusion amount).

However, with the exception of bicycling commuting expenses, the tax exclusion for employees has not changed—qualified transportation benefits are still excludable from employees' gross income. The tax exclusion for bicycling commuting benefits is suspended for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.

QUALIFIED MOVING EXPENSE REIMBURSEMENTS

Before 2018, employers could pay or reimburse an employee's eligible moving expenses related to starting employment at a new principal place of work on a tax-free basis. The Act **suspends this income exclusion** from 2018 through 2025 tax years. It also **suspends the employer deduction** for qualified moving expense reimbursements for the same period of time. However, the income exclusion and deduction still apply in the case of a member of the U.S. armed forces on active duty who moves pursuant to a military order and incident to a permanent change of station.

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EMPLOYER CREDIT FOR PAID FAMILY AND MEDICAL LEAVE

The Act creates a new temporary tax credit for employers that provide paid family and medical leave to their employees. The tax credit, which applies to wages paid in 2018 and 2019, is equal to a percentage of wages paid to employees who are on family and medical leave. Paid leave that is provided as vacation leave, personal leave, sick leave, or required by state or local law is not taken into consideration.

To qualify for the tax credit, an employer must have a written policy in place that provides at least two weeks of paid family and medical leave for full-time employees (proportionally adjusted for part-time employees) and a rate of payment that is at least 50 percent of an employee's normal pay rate.

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