



COMPLIANCE BULLETIN

HIGHLIGHTS

- A new law requires New Jersey employers with 20 or more employees to offer pre-tax transportation fringe benefits.
- Employees may use pre-tax dollars to pay for qualifying commuting expenses, such as transit passes and vanpooling.
- Employers that do not comply with the new law may be subject to penalties.

IMPORTANT DATES

March 1, 2019

New Jersey becomes the first state to enact a transportation fringe benefits law.

March 1, 2020

Deadline for covered employers to offer pre-tax transportation fringe benefits (unless regulations specify an earlier effective date).

Provided By:

Brown & Brown Benefit
Advisors

New Jersey Requires Employers to Offer Pre-tax Commuter Benefits

OVERVIEW

On March 1, 2019, Governor Phil Murphy signed a [bill](#) into law that will require New Jersey employers with **20 or more employees** to establish pre-tax transportation fringe benefit programs. Although many employers voluntarily offer these benefits, New Jersey is the first state to require employers to provide them for their employees.

Transportation fringe benefit programs allow employees to set aside pre-tax dollars for certain work-related commuting expenses. The New Jersey law requires these programs to provide benefits for transit passes and vanpooling expenses, although employers may also include qualified parking.

Covered employers must offer these benefits by **March 1, 2020**. However, implementing regulations may specify an earlier compliance deadline.

ACTION STEPS

New Jersey employers with 20 or more employees should start taking steps to implement a pre-tax commuter benefits program. Employers should also watch for regulations from the [Department of Labor and Workforce Development](#).



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Transportation Fringe Benefit Programs

New Jersey employers that are subject to the state's unemployment compensation law and have at least 20 employees must offer all of their employees the opportunity to elect pre-tax benefits for qualifying transit passes and vanpooling expenses. The program must allow employees to elect benefits at the maximum level permitted by federal law.

Internal Revenue Code (Code) Section 132(f) allows employees to use pre-tax dollars to pay for certain work-related commuting expenses. These expenses include **qualified parking, transit passes and vanpooling**. These pre-tax dollars are exempt from federal income taxes and Social Security taxes.

New Jersey employers with 20 or more employees must allow their employees to pay for certain commuting expenses on a pre-tax basis through a Code Section 132(f) transportation fringe benefits program.

Compliance Deadline

New Jersey's commuter benefits law became effective on March 1, 2019. However, no penalties will be assessed against employers until **March 1, 2020**, unless the Department issues regulations that include an earlier compliance deadline. Also, a special timing rule applies to *collectively bargained employees*. Covered employers must offer pre-tax commuter benefits to their collectively bargained employees when their collective bargaining agreements that were in effect on March 1, 2019, expire.

Maximum Benefit Limits

Federal tax law establishes a maximum amount of transportation fringe benefits that employees can exclude from income for tax purposes. These limits are subject to annual increases for inflation. For 2019, the maximum benefit levels are:

- ✓ Qualified parking: **\$265 per month**
- ✓ Vanpooling and transit passes (combined): **\$265 per month**

Qualified Expenses

Transportation fringe benefit programs can provide benefits for qualified parking, transit passes and rides in commuter highway vehicles (vanpooling).

Qualified parking

Parking provided to employees at or near the employer's business premises. It also includes parking on or near the location from which employees commute to work using mass transit, commuter highway vehicles or carpools.

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Transit passes

Any passes, tokens, farecards, vouchers or similar items that allow employees to ride free of charge (or at a reduced rate) on mass transit or in a vehicle that seats at least six adults (excluding the driver) if a person in the business of transporting persons for pay or hire operates it. Mass transit may be publicly or privately operated and includes bus, rail or ferry.

Vanpooling

Transportation between the employee's residence and place of employment in a commuter highway vehicle that seats at least six adults (excluding the driver).

Enforcement and Penalties

The Department is responsible for ensuring that covered New Jersey employers provide pre-tax transportation fringe benefits. The law directs the Department to issue regulations regarding the administration and enforcement of the law's requirements.

Employers that fail to offer pre-tax transportation fringe benefits as required by the law may be subject to penalties. First violations can trigger penalties between \$100 and \$250. Employers will have 90 days to offer a pre-tax commuter benefits program before the penalty is imposed for a first violation. After that 90-day period, employers can be subject to a penalty of \$250 for each 30-day period of noncompliance.