

New Philadelphia Employee Commuter Transit Benefit Programs

On June 22, 2022, Mayor Jim Kenney signed the Employee Commuter Transit Benefit Ordinance into law (the “Ordinance”). The Ordinance adds new commuter transit benefit programs in Philadelphia that require certain employers to provide a mass transit and bicycle commuter benefit program, beginning on December 31, 2022.

■ Who Does this Apply to?

Covered Employers are employers that employ at least 50 Covered Employees. Covered Employees are those who work at least 30 hours per week within the geographic boundaries of Philadelphia for the same employer within the previous 12 months.

■ What Must be Provided?

Covered Employers are required to make at least one of the following employee commuter transit benefit programs availability to all of their Covered Employees:

- Election of a pre-tax, payroll deduction for Mass Transit Expenses;
- An employer-paid benefit where the Covered Employer provides a pass, token, fare card or similar item entitling a person to transportation on public transit; or
- Any combination of the above.

For 2022, the IRS will allow employees to set aside a maximum of \$280 per month for commuter benefits on a tax-free basis.

In addition, Covered Employers also must offer their Covered Employees who regularly use a bicycle for commuting to and from work, a tax-free reimbursement of Qualified Bicycle Expenses, up to \$20 per month. Cyclists are not permitted to exclude qualified bicycle commuting reimbursements from their income for federal income tax purposes for years 2018 through 2025.

■ What is a Mass Transit Expense?

A Mass Transit Expense is an expense incurred for a Fare Instrument or transportation in a commute highway vehicle, if used for travel between an employees' residence and workplace.

What Qualifies as a Bicycle Expense?

A Qualified Bicycle Expense is a reasonable expense incurred by a Covered Employee who regularly uses a bicycle for commuting to and from work. This includes the purchase, maintenance, repair and storage expenses related to bicycle commuting.

What is the Effective Date of the Ordinance?

The effective date of these programs is December 31, 2022. Covered Employees may report their employer. If a Covered Employer does not comply with the Ordinances within 30 days after a written warning by the agency designated by the Mayor, fines ranging from \$140 to \$300 per day may be imposed for each day the Covered Employer fails to comply (each a separate violation).

■ Employer Action

Covered Employers should:

- Review their current policies related to any commuter transit benefit program and ensure they comply with the Ordinance
- Begin taking steps to implement a commuter transit benefit program if they do not currently have one in place
- Notify employees of the new benefits once any new commuter benefit programs are implemented
- Keep an eye out for additional guidance and discuss next steps with their payroll providers and third-party vendors