

# Transit Benefit Campaign

## Executive Summary

### What Are Transportation Fringe Benefits?

Transportation Fringe Benefits, or Commuter Benefits, refers to the tax treatment that is provided to employers and employees in relation to certain commuting costs. Under Federal law (26 U.S. Code § 132), an employer may provide (or withhold) up to \$255/month\* for qualified parking, transit, and vanpool expenses. Additionally, employers may provide up to \$20/month for those who bike to work.

<p><b>For Employers per Employee</b></p> <p>Social Security (FICA)     \$ 190</p> <p>Medicare (FICA)            \$ 45</p> <p><b>Total Annual Employers Savings     \$ 235</b></p>	<p><b>Transit</b> (max \$255)*</p>	<p><b>Employers Save \$\$\$\$</b></p> <p>The transit portion of the commuter benefit makes sense for businesses of all shapes and sizes. The provision is a pre-tax benefit not only for employees, but also for the employers who offer it. Employers can reduce payroll taxes, providing a sound fiscal saving for the employer. This does not count savings from reduced parking needs and increased productivity.</p>
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\* Based on an employee earning <\$117,000 per year and FY2014-IRC Section 132(f)

### Commuters Save \$\$\$

The primary advantage to employees is that the transit benefit provides tax incentives to those who take transit or a vanpool. These savings do not include the hundreds of dollars a year saved from auto-related expenses like fuel, maintenance, and insurance.

<p><b>For Employees</b></p> <p>Federal Income Tax Savings     \$ 765</p> <p>FICA Savings                         \$ 235</p> <p>Avg. State/City Income Tax Savings     \$ 130</p> <p><b>Total Annual Employees Savings     \$ 1,130</b></p>	<p><b>Transit</b> (max \$255)**</p>
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\*\* Based on a 25% tax bracket (most common) and FY2014-IRC Section 132(f)

## Current Transit Benefit Ordinances

### New York City

**Coverage:** New York City

**Legislative Body:** City Council

**Covers:**

Employers of twenty (20) or more full-time, non-union employees in New York City. Government agencies are exempt.

**Website:**

<https://www1.nyc.gov/site/dca/about/commuter-benefits-FAQs.page>

### Washington, DC

**Coverage:** Washington, DC

**Legislative Body:** City Council

**Covers:**

Employers of twenty (20) or more employees in Washington, DC.

**Website:**

<http://www.godcgo.com/employer>

### San Francisco

**Coverage:** San Francisco and nine (9) surrounding counties.

**Legislative Body:** Combination of State Legislature and Regional Planning & Air Quality Boards

**Covers:** Employers of twenty (20) or more employees

**Website:**

<http://www.baaqmd.gov/rules-and-compliance/commuter-benefits>

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## *What should a Transit Benefit Campaign include?*

Most transit benefit ordinances require employers to provide the transit benefit. How they require the transit benefit may vary:

**Requiring Pre-tax Transit Benefit** – Under this option, the transit benefit is required to be offered to all employees on a pre-tax basis.

This is the lowest cost option for employers as they only need to pay for the cost of the third-party administrator or payroll provider fees, if any. **These fees are significantly less than the amount that the employer saves on payroll taxes.** Many transit agencies offer corporate pass programs where no fees are charged.

**Subsidy** – Under this scenario, the employer is required to subsidize a portion of their employees' transit costs, that is, in addition to salary.

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## *What Employers should be included?*

Most ordinances are based upon a minimum number of employees, ranging between 25-50 employees. Below are some questions to think about when determining what qualifies as an employee:

- How many employees are required for an employer to be included?
- Are full-time only or part-time employees included?
- Must all employees work in the jurisdiction in order to be counted?
- Are certain employees exempt from the count?
- What is the definition of employee in your state/local jurisdiction?

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## *How to enforce?*

An Ordinance is only as good as the enforcement behind it. Below are several ways to enforce the ordinance:

**Fine** – Failure to comply after a certain amount of time will result in an annual fine per employee. That fine could be used to create and expand transportation choices for commuters in the area.

**Carrot Rather Than a Stick** – In lieu of a fine or penalty, some jurisdictions may prefer rewarding complying businesses with such means as

- Reduced taxes
- Direct financial incentive
- Indirect support/rewards such as
  - Increased attention to transportation needs (i.e. dedicated/more frequent transit)
  - Access/deployment of shared transportation (carshare/bikeshare)

## ***Effective Steps to Establishing a Transit Benefit Ordinance***

Every municipality has a slightly different structure and process to pass new policies. Use the guide below as a checklist towards the goal of passing legislation in your community.

Map out a rationale for how this ordinance would benefit the community in terms of environment, traffic congestion, tax savings for residents/businesses, and increased transit usage. Use this information whenever you approach anyone potentially impacted by the ordinance.

- 1.** Identify one or more council members that will take the lead in proposing legislation to the council or board. Work with them to map out the process of passage of the ordinance.
- 2.** Work with municipality staff to identify a department that will be responsible for enforcement and compliance of the ordinance. Meet with department leadership to get an estimate on how much time and staff would be required to monitor compliance.
- 3.** Use the existing templates to draft the proposed legislation, or have department contact do so. There are several key points to decide on:
  - a)** minimum number of employees for an employer to fall under the regulation
  - b)** penalties for non-compliance
  - c)** transition period for implementation and full enforcement
- 4.** Work with legal counsel from the City Attorney's office to make sure that the proposed legislation is compliant with other codes and state laws.
- 5.** Identify key individuals who are willing to collaborate with business leaders, council members, and other officials within the municipality.
- 6.** If the municipality is small, organize a meeting with the City Manager, Director of Financing/Accounting, and the City Attorney. Review the ordinance, and explain the community benefits.
- 7.** Organize roundtables and discussions with local businesses (large and small) to get input and feedback on the concept.
- 8.** Present to and solicit input from local business groups such as chambers of commerce and merchant associations. If they are supportive, ask them to write a letter.
- 9.** Work with labor councils, environmental groups, and transit agencies to further build support for passage. They will most likely be immediately supportive. The key is to have a balance of business interests and other civic contributors.
- 10.** Develop compliance materials. Work with program manager to develop educational material and a public relations plan to get the word out to employers.

## ***Frequently asked questions:***

- **Why go to the trouble of creating this ordinance?**

This is a rare opportunity to create environmental legislation that is supported by both the business community and city government. It also benefits local transit agencies struggling with budget cuts, as well as reducing traffic congestion and CO2 emission.

- **Why does it have the support of the business community?**

The business community understands the need to show that they have a commitment to the environment. They also want to show support for a program that has cost savings built in through a reduction of payroll taxes – and isn't another unfunded mandate. Employers do not pay the 7.65% payroll tax on any funds employees set aside through the pre-tax program. It also offers other perks like the potential to free up street parking for customers. To quote the San Francisco Chamber of Commerce: "While the Chamber generally opposes mandates on business, the city's newest requirement that businesses with 20 or more employees working in San Francisco establish a program to promote the use of public transit can be an economic benefit. In addition to helping to reduce greenhouse gas emissions by getting people out of cars and onto transit, the law can be a money-saver for businesses." The Chamber should know — it has offered transit benefits for over 10 years.

- **Which key business groups have shown their support?**

In all jurisdictions that have passed ordinances, each of their chambers of commerce have voiced support (see letters of support). Additionally, there are merchant associations, e.g., The Downtown Berkeley Association (<http://www.downtownberkeley.com> /) and The Union Square Merchants Association in San Francisco. Other business groups include BOMA SF, a leading voice for the local commercial real estate industry (<http://www.bomasf.org/>) (the Golden Gate Restaurant Association [www.ggra.org](http://www.ggra.org) ; and Transportation Management Association of San Francisco (<http://www.tmasfconnects.org/index.php>).

- **What made the program rollout successful?**

Various cities have offered a series of employer workshops – both live and via webinar – to give employers the information they needed to understand the details and create a program. The workshops were vendor-neutral and lasted about one hour. One city sent a one-page informational flyer with their business license renewals. Various chambers have also given workshops for their members and material was posted on business association websites. Cities have created webpages on their city sites, and the San Francisco Dept. of the Environment created a separate website focus on the ordinance, including a list of vendors.

- **What amount of city staff time is involved in ensuring compliance?**

This depends on the level of enforcement the city or municipality elects. For instance, two cities are considering adding a check-box to their business license renewal form that asks for confirmation that a transit benefit program is in place. The business license department would have material available to hand out to businesses. One city is considering not approving business license renewals unless a program is in place. San Francisco's enforcement process does require more staff time but also results in a higher level of compliance. Officials estimate that for a city of San Francisco's size and level of enforcement, one FTE position is required, which includes educational outreach. They believe that the resulting reduction in VMT and the increased use of transit justifies the staff time involved.