

the costs you incur by any amount the employee pays for the service. You are considered to incur substantial additional costs if you or your employees spend a substantial amount of time in providing the service, even if the time spent would otherwise be idle or if the services are provided outside normal business hours.

Reciprocal agreements. A no-additional-cost service provided to your employee by an unrelated employer may qualify as a no-additional-cost service if all the following tests are met:

- The service is the same type of service generally provided to customers in both the line of business in which the employee works and the line of business in which the service is provided.
- You and the employer providing the service have a written reciprocal agreement under which a group of employees of each employer, all of whom perform substantial services in the same line of business, may receive no-additional-cost services from the other employer.
- Neither you nor the other employer incurs any substantial additional cost either in providing the service or because of the written agreement.

Employee. For this exclusion, treat the following individuals as employees.

1. A current employee.
2. A former employee who retired or left on disability.
3. A widow or widower of an individual who died while an employee.
4. A widow or widower of a former employee who retired or left on disability.
5. A leased employee who has provided services to you on a substantially full-time basis for at least a year if the services are performed under your primary direction or control.
6. A partner who performs services for a partnership.

Treat services you provide to the spouse or dependent child of an employee as provided to the employee. For this fringe benefit, *dependent child* means any son, stepson, daughter, or stepdaughter who is a dependent of the employee, or both of whose parents have died and who has not reached age 25. Treat a child of divorced parents as a dependent of both parents.

Treat any use of air transportation by the parent of an employee as use by the employee. This rule does not apply to use by the parent of a person considered an employee because of item (3) or (4) above.

Exclusion from wages. You can generally exclude the value of a no-additional-cost service you provide to an employee from the employee's wages.

Exception for highly compensated employees. You cannot exclude from the wages of a highly compensated employee the value of a no-additional-cost service that is not available on the same terms to one of the following groups.

- All of your employees.
- A group of employees defined under a reasonable classification you set up that does not favor highly compensated employees.

For this exclusion, a highly compensated employee for 2009 is an employee who meets either of the following tests.

1. The employee was a 5% owner at any time during the year or the preceding year.
2. The employee received more than \$105,000 in pay for the preceding year.

You can choose to ignore test (2) if the employee was not also in the top 20% of employees when ranked by pay for the preceding year.

Retirement Planning Services

You may exclude from an employee's wages the value of any retirement planning advice or information you provide to your employee or his or her spouse if you maintain a qualified retirement plan as defined in section 219(g)(5) of the Internal Revenue Code. In addition to employer plan advice and information, the services provided may include general advice and information on retirement. However, the exclusion does not apply to services for tax preparation, accounting, legal, or brokerage services.

Transportation (Commuting) Benefits

This section discusses exclusion rules that apply to benefits you provide to your employees for their personal transportation, such as commuting to and from work. These rules apply to the following transportation benefits.

- De minimis transportation benefits.
- Qualified transportation benefits.

Special rules that apply to demonstrator cars and qualified nonpersonal-use vehicles are discussed under *Working Condition Benefits*, later.

De Minimis Transportation Benefits

You can exclude the value of any de minimis transportation benefit you provide to an employee from the employee's wages. A de minimis transportation benefit is any transportation benefit you provide to an employee if it has so little value (taking into account how frequently you provide transportation to your employees) that accounting for it would be unreasonable or administratively impracticable. For example, it applies to occasional transportation fare you give an employee because the employee is working overtime if the benefit is reasonable and is not based on hours worked.

Employee. For this exclusion, treat any recipient of a de minimis transportation benefit as an employee.

Qualified Transportation Benefits

This exclusion applies to the following benefits.

- A ride in a commuter highway vehicle between the employee's home and work place.
- A transit pass.
- Qualified parking.
- Qualified bicycle commuting reimbursement.

The exclusion applies whether you provide only one or a combination of these benefits to your employees.

Qualified transportation benefits can be provided directly by you or through a bona fide reimbursement arrangement. However, cash reimbursements for transit passes qualify only if a voucher or a similar item that the employee can exchange only for a transit pass is not readily available for direct distribution by you to your employee. A voucher is readily available for direct distribution only if an employee can obtain it from a voucher provider that does not impose fare media charges or other restrictions that effectively prevent the employer from obtaining vouchers. See Regulations section 1.132-9 for more information.

Generally, you can exclude qualified transportation fringe benefits from an employee's wages even if you provide them in place of pay. However, qualified bicycle commuting reimbursements do not qualify for this exclusion. For information about providing qualified transportation fringe benefits under a compensation reduction agreement, see Regulations section 1.132-9(b)(Q-11).

Commuter highway vehicle. A commuter highway vehicle is any highway vehicle that seats at least 6 adults (not including the driver). In addition, you must reasonably expect that at least 80% of the vehicle mileage will be for transporting employees between their homes and work place with employees occupying at least one-half the vehicle's seats (not including the driver's).

Transit pass. A transit pass is any pass, token, farecard, voucher, or similar item entitling a person to ride, free of charge or at a reduced rate, one of the following.

- On mass transit.
- In a vehicle that seats at least 6 adults (not including 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. For guidance on the use of smart cards and debit cards to provide qualified transportation fringes, see Revenue Ruling 2006-57, 2006-47 I.R.B. 911, available at www.irs.gov/irb/2006-47_IRB/ar05.html and Notice 2008-74, 2008-38 I.R.B. 718, available at www.irs.gov/irb/2008-38_IRB/ar09.html.

Qualified parking. Qualified parking is parking you provide to your employees on or near your business premises. It includes parking on or near the location from which your employees commute to work using mass transit, commuter highway vehicles, or carpools. It does not include parking at or near your employee's home.

Qualified bicycle commuting reimbursement. For any calendar year, the exclusion for qualified bicycle commuting reimbursement includes any employer reimbursement during the 15-month period beginning with the first day of the calendar year for reasonable expenses incurred by the employee during the calendar year.

Reasonable expenses include:

- The purchase of a bicycle and
- Bicycle improvements, repair, and storage.

These are considered reasonable expenses as long as the bicycle is regularly used for travel between the employee's residence and place of employment.

Employee. For this exclusion, treat the following individuals as employees.

- A current employee.
- A leased employee who has provided services to you on a substantially full-time basis for at least a year if the services are performed under your primary direction or control.

A self-employed individual is not an employee for qualified transportation benefits.

Exception for S corporation shareholders. Do not treat a 2% shareholder of an S corporation as an employee of the corporation for this purpose. A 2% shareholder is someone who directly or indirectly owns (at any time during the year) more than 2% of the corporation's stock or stock with more than 2% of the voting power. Treat a 2% shareholder as you would a partner in a partnership for

fringe benefit purposes, but do not treat the benefit as a reduction in distributions to the 2% shareholder.

Relation to other fringe benefits. You cannot exclude a qualified transportation benefit you provide to an employee under the de minimis or working condition benefit rules. However, if you provide a local transportation benefit other than by transit pass or commuter highway vehicle, or to a person other than an employee, you may be able to exclude all or part of the benefit under other fringe benefit rules (de minimis, working condition, etc.).

Exclusion from wages. You can generally exclude the value of transportation benefits that you provide to an employee during 2009 from the employee's wages up to the following limits.

- \$120 per month for combined commuter highway vehicle transportation and transit passes.
- \$230 per month for qualified parking.
- \$20 per qualified bicycle commuting month.

Qualified bicycle commuting month. For any employee, a qualified bicycle commuting month is any month the employee:

1. Regularly uses the bicycle for a substantial portion of the travel between the employee's residence and place of employment and
2. Does not receive:
 - a. Transportation in a commuter highway vehicle,
 - b. Any transit pass, or
 - c. Qualified parking benefits.

Benefits more than the limit. If the value of a benefit for any month is more than its limit, include in the employee's wages the amount over the limit minus any amount the employee paid for the benefit. You cannot exclude the excess from the employee's wages as a de minimis transportation benefit.

More information. For more information on qualified transportation benefits, including van pools, and how to determine the value of parking, see Regulations section 1.132-9.

Tuition Reduction

An educational organization can exclude the value of a qualified tuition reduction it provides to an employee from the employee's wages.

A tuition reduction for undergraduate education generally qualifies for this exclusion if it is for the education of one of the following individuals.

1. A current employee.
2. A former employee who retired or left on disability.
3. A widow or widower of an individual who died while an employee.
4. A widow or widower of a former employee who retired or left on disability.
5. A dependent child or spouse of any individual listed in (1) through (4) above.

A tuition reduction for graduate education qualifies for this exclusion only if it is for the education of a graduate student who performs teaching or research activities for the educational organization.

For more information on this exclusion, see Publication 970, Tax Benefits for Education.

Volunteer Firefighter and Emergency Medical Responder Benefits

An exclusion from gross income is available to volunteer firefighters and emergency medical responders who are members of a qualified volunteer emergency response organization.

After 2007, gross income does not include:

- Rebates or reductions of property or income taxes provided by a state or local government for providing services as a member of a qualified emergency response organization (defined below). Any such rebate or reduction reduces the amount of the income tax deduction for such taxes.
- Qualified payments made by a state or local government for providing services as a member of a qualified emergency response organization. The exclusion is limited to \$30 multiplied by the number of months the member performs such services. A charitable deduction for expenses paid by the member in connection with performing such services must be reduced by any payment excluded from income.

A qualified volunteer emergency response organization is any volunteer organization organized and operated to provide firefighting or emergency medical services for persons in a state or local jurisdiction and required by written agreement with that state or local jurisdiction to furnish such services.

Exclusion from wages. You can exclude any qualified state or local tax benefit and any qualified reimbursement payment from the employee's wages. The excluded wages are not subject to federal withholding, social security tax, and unemployment tax.