

Tax Notes

IRS Provides Interim Guidance on Qualified Parking

By Joseph R. Connolly, Tax Supervisor

Under Internal Revenue Code (IRC) Section 274(a)(4), no deduction is allowed for an expense of a qualified transportation fringe benefit (QTFB) provided to an employee of a taxpayer. IRC Section 512(a)(7) provides that a tax-exempt organization's unrelated business taxable income (UBTI) is increased by the amount of the QTFB expense that would be non-deductible under IRC Section 274.

Qualified transportation fringe benefits include:

- transportation in commuter highway vehicles,
- transit passes, and
- qualified parking.

The IRS recently issued Notice 2018-99 which provides interim guidance for taxpayers to determine the amount of nondeductible qualified parking expenses included in the QTFB.

Qualified Parking Defined

Qualified parking is defined in IRC Section 132(f)(5)(C) as parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work. Effective after December 31, 2017 and as part of the Tax Cuts and Jobs Act (TCJA), the costs associated with providing parking for employees may now be taxable to nonprofit organizations.

Calculating Taxable Parking Costs

To calculate the cost of parking that is taxable, an organization must follow the process outlined below and also summarized in [this decision chart](#).

STEP 1: Calculate the disallowed parking spots reserved for employees

An organization must identify the total number of spots that are exclusively reserved for employees by signage or barriers. If these spots have signs or barriers reserving them for employee use, an organization has until March 31, 2019 to remove those signs and barriers or the cost associated with these spots will be fully taxable to the organization to the extent the cost is not already included in the employee's compensation. If the signs are timely removed, then these spots can be treated as not reserved retroactive to January 1, 2018.

STEP 2: Determine the primary use of the remaining parking spots

An organization must establish the primary use of the total remaining non-reserved parking spots by determining how many are used for employees and how many are used for the general public during the normal business hours of the organization. The IRS defines primary use as greater than

50% of the actual or estimated use of the remaining spots. An organization must estimate the usage if it is not able to determine the actual use during the course of a day. The general public includes everyone except employees, partners or independent contractors of the organization. If the primary use of the remaining parking spots is for the general public, then the cost of the remaining non-reserved parking spots are not taxable to the organization. If the primary use of the remaining parking spots is for employees, then the allocable percentage of expenses are taxable to the organization.

STEP 3: Identify parking spots reserved for nonemployees

If the primary use of the parking spots as determined in step 2 is not for the general public, then the organization must determine if any of the remaining spots are designated for nonemployee use only. An example of this includes parking spots or a separate area for "Customer Parking Only." The costs associated with these spots are not disallowed or taxable to the organization.

STEP 4: Determine use of any remaining spots

Finally, an organization must determine the remaining use and allocable expenses to be taxable to these spots. The organization must make a reasonable effort to determine the use of any remaining spots based on actual or estimated usage, hours of usage or other measures.

Allocable Parking Expenses

The allocable expenses associated with parking are determined by the cost of the parking spot or facility, not the value of the lot or facility. Costs associated with these spots include: repairs and maintenance, snow and trash removal, parking lot attendant salary, landscape cost, security cost and rent or lease payments. Cost does not include any depreciation on a parking structure owned by an organization.

Net Taxable

Once an organization determines the cost of employee parking and that the primary use of the spots or facility is for employees, that amount is now taxable to the organization. If the benefit provided to an employee exceeds \$260 per month, the amount in excess of \$260 (increased to \$265 in 2019) should be treated as taxable compensation to the employee.

Contact Us

If you have questions regarding how these rules will apply to your organization or how to report unrelated business income, contact Garrett M. Higgins, CPA, Partner at ghiggins@pkfod.com or a member of your tax-exempt client service team at PKF O'Connor Davies.

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