



# eBenefits Alert: Transit Benefits and Retroactive Limits —Special Procedure for 2012

January 17, 2013

Recently Congress retroactively increased the limit on tax-free mass transit benefits for 2012. The IRS has now released guidance to facilitate re-characterizing 2012 benefits. **Eligible employers must act quickly to use this procedure.**

## The Retroactivity Problem

As part of the "fiscal cliff" deal, Congress increased the maximum transportation plan benefit for transit passes and commuter vehicles to make it the equivalent of the maximum benefit available for parking. This change in the law is retroactive to January 1, 2012, and effective through December 31, 2013. This left employers wondering how to put the increased limit for 2012 into effect.

## IRS Guidance

Notice 2013-8 allows employers who have not yet filed Form 941 to use the fourth quarter Form 941 to re-characterize amounts that can now be excluded from income under the new law. The full year's re-characterization will occur on the fourth quarter Form 941. To take advantage of this special administrative procedure, the employer must:

- Not yet have filed Form 941 for the fourth quarter of 2012
- Reimburse employees for overcollected FICA taxes before filing Form 941

Employers who have already filed Form 941 should use Form 941-X to make adjustments or claim refunds.

Employers who have not yet furnished W-2 forms to their employees should take into account the increased exclusion for mass transit benefits in calculating the amounts to be reported on the W-2. If W-2 forms have already been provided to employees, but not to the Social Security Administration, new and corrected forms can still be furnished.

Employers who have already filed 2012 Forms W-2 with the Social Security Administration will need to file Forms W-2c to take the increased exclusion into account.



The details of the special administrative procedure can be found in IRS Notice 2013-8, which is available at <http://benefitslink.com/src/irs/notice2013-8.pdf>.

This article is provided for general informational purposes only and should not be construed as legal advice or legal opinion on any specific facts or circumstances. You are urged to consult a lawyer concerning any specific legal questions you may have.