

Parking Benefit Taxation

The Issue: The business deduction for qualified transportation fringe benefits (QTFs) such as qualified parking, transit passes, commuter highway vehicle transportation and bicycle commuting benefits was eliminated in The Tax Cuts and Jobs Act (TCJA) of 2017. In short, if employers provide these benefits, they must pay tax on it or pass the tax along to the employee. This QTF change affects both employers who pay a third party for employee parking spots and employers who own or lease their own parking. It is also a new challenge to navigate for building owners and managers.

- QTFs include parking, bicycle, commuter highway vehicle and transit pass benefits that were previously untaxed to the employee
- Without feedback from the real estate industry, the IRS concocted a complicated formula that does not reflect the reality of the expense data our building managers possess
- By creating an overly cumbersome compliance mechanism, the IRS has placed building managers in the role of tax accountants

BOMA members will generally not pay more in taxes due to this change but will pay more in accounting costs and time to aide their tenants in compliance. To clarify the laws intent, the IRS created guidance (Notice 2018-99) itemizing the parking expenses that are subject to disallowance. While this guidance was meant to aid business owners in calculating their new tax, it has instead exacerbated the complexity of complying with the law. The guidance requires tenants to get pro rata expense information from their landlord including but not limited to: rent or lease payments, repairs, maintenance, utility costs, insurance, property taxes, snow/leaf/trash removal, landscaping, parking attendant and security costs of parking facilities and structures. All costs that building owner and managers do not often have the itemized per parking lot amounts for.

BOMA's Position: BOMA urges the IRS to consult with industry on the realities of building management expenses when drafting and reviewing how tenants calculate the cost of parking since the regulations as written are extremely onerous and often not possible to comply with. Additional guidance is needed for situations where a business' parking is bundled into a lease. Employers and property managers need guidance on how to calculate the cost of parking-only in the lease and equitably divide that cost between tenants.

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