

New York City Amends Mass Transit Benefit Rules

Starting this year, New York City businesses with 20 or more full-time employees who work in the city must offer their employees the option to use their pre-tax earnings to purchase certain transportation benefits. The Commuter Benefits Law, which passed in 2014, became effective on January 1, 2016. The law was recently amended to clarify recordkeeping requirements, enforcement provisions, and penalties that employers should pay attention to in order to avoid noncompliance fines.

Background

The amendment can be found under Title 6 of the Rules of the City of New York, Local Law 2014/053, Chapter 8. Chapter 8 divides the new changes into two parts: Recordkeeping Requirements and Enforcement. The grace period ended on July 1 of this year, so employers can now be issued penalties for failing to comply.

What this Means for You as an Employer

Employers must now keep records for two years that prove one of two things. They either offered their eligible employees the chance to purchase approved transit benefits with [their pre-tax earnings, or, at their own expense, provided a transit pass or similar form of payment for transportation on public or privately owned mass transit or in a commuter highway vehicle at the maximum pre-tax level allowed under law.

The amendment increases the fines for the first violation and clarifies “cure periods,” a window of time during which employers can correct the violation to avoid a penalty. Originally, first violation penalties ranged between \$100 and \$250, with a 90-day cure period before the fine would actually be enforced. After that, penalties of \$250 could be assessed for each additional 30-day period of noncompliance; these are referred to as subsequent violations. Under the amended rules, employers will be assessed \$250 for the first violation and another \$250 for any subsequent or “recidivist” violations, which are described as any new violations that occur after the first identified violation.

Next Steps for Employers

We recommend that you:

- Immediately begin collecting records of employees who have been offered the opportunity to purchase transit benefits, as well as records showing that you provided these benefits at your own expense.
- Note which employees accepted or declined the opportunity to purchase benefits.

New York City has provided a compliance form to assist employers with recordkeeping, which you can find on their [website](#). If you have any questions or concerns regarding these new policies, feel free to contact us.

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