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Retroactive Increase in Transit Benefit Exclusion

Employers who provided employees with monthly transit benefits in excess of \$125 per month during 2012 may have over withheld income and FICA (Social Security and Medicare) taxes due to the retroactive increase in the monthly transit benefit exclusion in the Fiscal Cliff Bill. Employers will be required to correct any overreported amounts using the Internal Revenue Service's normal correction procedure.

Background. Employees may exclude employer-provided commuter and transit pass benefits from income, but only up to a maximum monthly dollar limit (adjusted annually for inflation). The American Taxpayer Relief Act of 2012, which was signed into law on January 2, 2013, retroactively increased the monthly transit benefit exclusion from \$125 to \$240 per employee per month for the period from January 1, 2012 through December 31, 2012. For more information on the American Taxpayer Relief Act of 2012 and transportation fringe benefits, see January 8, 2013 [theHRBenefitsAuthority](#), [Fiscal Cliff Bill Affects Various Employee Benefit Provisions](#).

Because this provision is retroactive, employers may have reported excess 2012 transit benefits (*i.e.*, employer-provided transit benefits in excess of \$125 up to \$240 per month) as includible in income and also withheld income and FICA taxes on these excess amounts.

Next Steps. Employers will have to file a separate Form 941-X for each Form 941, Employer's Quarterly Federal Tax Return, that reported excess 2012 transit benefits. In conjunction with filing Form 941-X, employers will have to obtain written confirmations and, possibly, consents from affected employees. Additionally, employers who have already distributed and filed Forms W-2 with the Social Security Administration will be required to file Forms W-2c, Corrected Wage and Tax Statement. We can assist you with these processes moving forward.

Contact Information. For more information or assistance with the filing processes from Mazursky Constantine, please contact Don Mazursky (404.888.8840), Toby Walls (404.888.8870) or Alden Koste (404.888.8839).

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