STRATEGIC HEALTH CARE

Employee Fringe Benefit Changes in the Tax Bill

January 5, 2018

The *Tax Cuts and Jobs Act* (the Act), signed into law on December 22, 2017, makes several changes to the taxability and deductibility of employee fringe benefits effective January 1, 2018. Click here and here for provisions on the treatment of certain fringe benefits in the new law. Click here for conference report language regarding excludable fringe benefits. Click here for conference report language regarding bicycle commuting benefits.

The IRS may provide additional guidance on these and other provisions in the Act, although the timing is unclear.

The Act treats amounts used by tax-exempt organizations to pay for certain fringe benefits offered to employees as unrelated business taxable income (UBTI) (provided that the amounts are not deductible under section 274).

The triggering fringe benefits include qualified transportation fringe benefits, any parking facility used in connection with qualified parking, and on-premises athletic facilities. The provision applies to amounts paid or incurred after December 31, 2017.

Meals: Generally, employers may continue to deduct 50% of the food and beverage expenses associated with operating their business. Between January 1, 2018 and December 31, 2025, the Act applies this 50% limitation to the deduction of on-site eating facility expenses that are considered *de minimis* fringe benefits. After December 31, 2025, employers can no longer deduct such on-site eating facility expenses or expenses for means furnished for the convenience of the employer.

Qualified Transportation Benefits: Beginning January 1, 2018, employers may continue to provided qualified transportation plans that enable employees to pay for certain tax qualified transportation benefits on a pre-tax basis (up to $260/month for parking or transit/vanpooling in 2018) but employers will no longer be able to deduct the expense of any subsidy that the employer providers toward employees' transportation fringe benefit unless the expense is necessary for employee safety reasons. Subsidies provided by tax-exempt employers will be treated as UBTI.

Bicycle Commuting Reimbursement: Between January 1, 2018 and December 31, 2025, employers may continue to deduct expenses for qualified bicycle community reimbursement (up to $20/month in 2018), but any reimbursements will be treated as taxable income to employees.

If you have any questions, please contact our General Counsel Diane Turpin at 202-266-2600.