



Issued date: 01/22/16

The Consolidated Appropriations Act, 2016 (the “Act”) permanently changed the pre-tax transit benefits to be at parity with parking benefits. As a result, the Act retroactively increased the 2015 transit benefits from \$130 to \$250. For 2016, the transit and parking pre-tax benefits are \$255.

On January 12th, the IRS issued Notice 2016-06, which provides alternative correction procedures for employers related to the 2015 pre-tax transit increase. Employers are required to correct Forms 941 and W-2 by amounts in excess of \$130, whether provided by the employer or through a compensation reduction arrangement.

- For example, if an employer provided an employee with a transit pass worth \$200, but taxed the employee \$70 (\$200-\$130), then the employer is required to correct the 941 and the W-2 to reflect the \$70 as tax free benefits.
- As another example, if an employee enrolled in a compensation reduction arrangement and purchased a \$200 transit pass, \$130 pre-tax and \$70 post tax, the employer is required to correct the Form 941 and the employee’s W-2 to treat the \$70 as pre-tax.

Ordinarily, an employer is required to make corrections to the Forms 941 and W-2 by filing Forms 941-X for each quarter and the Form W-2C. However, Notice 2016-06 provides the following procedures to reduce administrative burden:

1. **Repay or reimburse employees** for over-collected FICA Tax (including any additional Medicare tax) for all four quarters of 2015;
2. The reimbursement or repayment must be completed prior to filing the Form 941 by the employer;
3. The Fourth Quarter 941 will have the following reductions:
 - a. Wages, Tips and Compensation on Line 2;
 - b. Taxable Social Security Wages on Line 5a;
 - c. Taxable Medicare Wages and Tips on Line 5C;
 - d. Taxable Wages and Tips subject to additional Medicare Tax on Line 5D.

If the employer takes advantage of the administrative procedures outlined in the Notice, the employer will not have to file a Form 941-X or Forms W-2c (the Forms ordinarily filed to make corrections).

If an employer has not repaid or reimbursed employees for over-collected FICA Tax, then the employer must follow the ordinary correction procedures, meaning filing amended returns for each quarter and amended W-2s (Forms 941-X and W-2c, respectively).

Finally, the Notice also clarifies the following additional items:

- An employer is not required to provide additional transit benefits to its employees for 2015;
- An employee is not permitted to retroactively increase the 2015 salary reduction to take advantage of the increase provided by the Act;
- An employee is not permitted to have a salary reduction in excess of \$255 for 2016 to compensate for the 2015 increase; and
- There continues to be a limitation on providing cash reimbursements for transit passes when transit passes are readily available for direct distribution by the employer to the employee.

For further information and details, please see IRS Notice 2016-6,

<http://www.irs.gov/pub/irs-drop/n-16-06.pdf>.

For implementation, please call your payroll service provider directly and discuss the Notice.

