

Commuter Benefits Ordinance Factsheet

Last Updated 3/15/2010

Effective January 19, 2009, San Francisco employers are required to offer a commuter benefits program to encourage employees to use public transit or vanpools.

San Francisco's Commuter Benefits Ordinance encourages employers and employees to tap into an existing Federal program, through IRS code 132(f), to pay for transit passes and vanpool expenses. Employers save up to 9% on payroll taxes and employees save up to 40% on their transit costs. The benefit works like other pre-tax plans such as retirement, dependent care, and medical reimbursement, except that it's much simpler.

Employers can offer commuter tax benefits as a payroll deduction, a subsidized benefit, or a combination of the two. Employers can administer the benefit themselves, purchasing the transit tickets or vouchers each month and distributing them to employees or hire a third-party administrator to manage their program. Please visit CommuterBenefits.org for administration resources.

What are the requirements of the new commuter benefits law?

All employers in San Francisco that have 20 or more person performing work for compensation on a full-time, part-time, or temporary basis and who work an average of at least 10 hours a week while working for the same employer within the previous calendar month, must offer one of the following:

- 1. Pre-tax Transit:** Employer sets up a deduction program under existing IRS code 132(f), which allows employees to make monthly pretax deductions to purchase transit passes or vanpool rides. Please see CommuterBenefits.org or the IRS Fringe Benefits Guide at IRS.gov/publications/p15b/index.html for more information.
- 2. Employer Paid Transit Benefits:** Employer pays for workers' transit fares on any of the SF Bay Area transit agencies and reimburses workers for their vanpool expenses. Reimbursements for transportation expenses must be of at least an equivalent value to the purchase price of the SF Muni Fast Pass (including BART travel within SF). Please see SFMTA.com for current Fast Pass prices.
- 3. Employer Provided Transit:** Employer offers workers free shuttle service on a company-funded bus or van between home and place of business.



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What is the maximum monthly pre-tax deduction approved by the Federal government? Do employers have to allow their employees to deduct the maximum amount?

Effective February 17, 2009, the maximum amount allowed by the Federal government went up to \$230/month. The maximum may change January 1, 2011. To stay informed, please check CommuterBenefits.org and the IRS Fringe Benefits Guide at IRS.gov/publications/p15b/index.html. Yes, employers have to allow their employees to deduct the maximum.

What modes of transportation can pre-tax dollars be used for?

Pre-tax dollars can be used to pay for transportation on all major SF Bay Area transit agencies and vanpool expenses.

For a complete list of transit agencies, rail lines and ferry services in the SF Bay Area, please visit 511.org.

Vanpools typically have 7 or more passengers, including the driver. The van can either be owned or rented. Vanpoolers also qualify for discounted street parking space in San Francisco. SF Environment, in partnership with 511.org, can assist your employees with setting up a carpool or vanpool for free. Visit SFEnvironment.org/RideshareMatch for more information.

Who is a covered employer?

An employer with 20 or more employees who does business within the City & County of San Francisco and is required to obtain a business registration certificate. Please refer to the Office of the Treasurer and Tax Collector at SFGov.org/Tax for business registration certificate inquiries. Click on the "Download Business Forms" link in the Business Zone section, and download the document titled "Understanding Business Registration PDF." Please note that employers with less than 20 employees are welcome to offer the benefit, though it is not required by the Ordinance.

If an employer is based outside of San Francisco, but has employees working in the City, are they covered by the Ordinance?

Yes, if the employer is required to obtain a business registration certificate. Please refer to the Office of the Treasurer and Tax Collector at SFGov.org/Tax for business registration certificate inquiries. Click on the "Download Business Forms" link in the Business Zone section, and download the document titled "Understanding Business Registration PDF."



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What if an employee’s hours fluctuate so that they work over 10 hours per week one month, but less than 10 hours per week the next month?

The employee must work a minimum of 10 hours per week averaged over one month. Employers are only required to cover the employee when they become eligible, but are welcome to offer the benefit to all employees, regardless of hours worked.

Does the Ordinance apply to employees covered by a collective bargaining agreement?

Yes. The Ordinance applies to all persons who perform work in San Francisco, including those employees covered by a bona fide collective bargaining agreement. A bona fide collective bargaining agreement is a written contract concerning wages, hours, and working conditions that is collectively bargained by an employer and a recognized union that represents the employees.

Under what circumstances can an employer offer benefits in the form of cash reimbursements rather than using transit vouchers or passes?

See IRS’ Fringe Benefits Guide at [IRS.gov/publications/p15b/index.html](https://www.irs.gov/publications/p15b/index.html) for more information.

Can there be a grace period before an employee must be offered the benefit?

Yes, an employee’s eligibility can be calculated up to one month after hiring.

What records are necessary to show compliance?

All employers must submit an Annual Employer Compliance Form, which can be found at CommuterBenefits.org. Employers should also keep proof that they are operating a commuter benefits program in case of an audit.

Are businesses required to post materials about the Ordinance?

Yes, a Certificate of Compliance must be posted at the work place so that it is visible to employees. To receive a Certificate of Compliance, first complete and return an Employer Compliance Form, which can be found at CommuterBenefits.org.

What are the penalties for non-compliance?

Non-compliance may result in fine: \$100 for a first violation, \$200 for a second violation within the same year, \$500 for each additional violation within the same year.

How do I report non-compliance to the City? Where can employers get assistance in complying with this Ordinance?

For any questions or concerns regarding the Ordinance, contact the Clean Air & Transportation Program at the SF Environment by emailing CommuterBenefits@SFGov.org or calling (415) 355-3727.



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What else can employers do to encourage smart commuting behavior?

Employers can sign up for San Francisco's free Emergency Ride Home Program. Employees who use the bus, train, ferry, vanpool, carpool, bicycles, or walk to work on the day of an unexpected personal emergency can take a taxi, a rental car, or other form of transportation home to deal with the crisis and SF Environment will reimburse them. To enroll in this free City-administered program, please visit SFERH.org.

Contact Information:

CommuterBenefits.org

Commuter Benefits Hotline: (415) 355-3727



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