IRC Section 132(1)
Commuter's Expense Flexible Spending Account

<u>The Transportation Equity Act for the 21st Century</u> allows employers to offer employees the opportunity to set aside a portion of their salary to pay for certain transportation expenses. The employee will not be taxed on amounts set aside and used for qualified expenses (that is, pre-tax dollars are used to pay the commuting expenses). This new fringe benefit first became available in 1999.

Qualified transportation expenses generally include payments for the use of mass transportation (for example, train, subway, bus fares), and for parking (see further details below). The maximum monthly pre-tax contribution for mass transit is $65, and $175 for parking. These limits are indexed for inflation.

How It Works: The transportation fringe benefit is similar to the pre-tax flexible spending accounts available for medical expenses and dependent care. One important difference, however, is the transportation benefit does not include a "use it or lose it penalty," as is the case with medical/dependent care flexible spending accounts.

Before the start of the plan year, individual employees elect to set aside a certain amount of pretax salary to cover qualified costs incurred in commuting to work. The employee will designate an amount (up to $65 per month) for mass transit expenses and a separate amount (up to $175 per month) for parking expenses -- separate reimbursement accounts are maintained for each category, and funds cannot be commingled or transferred between accounts (for example,, amounts cannot be transferred from the mass transit to the parking account).

As the employee incurs the expenses during the year, a request (usually a claim form) may be submitted to the employer for reimbursement. Any amounts remaining in the employee's reimbursement account at the end of the year are refunded to the employee in the following year (that is, the year after the employee's contributions were withheld from his/her paycheck).

Who is Eligible: As a general rule, the new transportation fringe benefit can only be provided by employers to employees. Common law employees and officers of corporations are eligible (the law does not include non-discrimination requirements for the benefit). Sole proprietors, partners, independent contractors, and two-percent shareholders of S corporations are not eligible for this transportation fringe benefit.

Qualified Expenses: Parking expenses that can be paid with pre-tax dollars include the costs of (1) parking a vehicle in a facility that is near the employee's place of work, or (2) parking at a location from where the employee commutes to work (for example, the cost of parking in a lot at the train station so that the employee can continue his/her commute on the train).