IRS Issues Guidance for Parking Expenses as Qualified Transportation Fringes

Amy Bibby, Partner | DHG Tax

The Internal Revenue Service issued Notice 2018-99 on Monday, December 10, delivering interim guidance to calculate the amount of non-deductible parking and other qualified transportation fringe (QTF) expenses for businesses and the amount tax-exempt organizations must include in unrelated business taxable income.

The Tax Cuts and Jobs Act (TCJA) amended Sections 274 and 512, effective for amounts paid or incurred after December 31, 2017:

Section 274(a)(4) generally prohibits a deduction QTF expenses provided by taxpayers to their employees. QTFs include van pools, transit passes and qualified parking expenses.

Section 512(a)(7) provides that a tax-exempt organization's unrelated business taxable income (UBTI) is increased by the amount of non-deductible QTF expense.

Until further guidance is issued, taxpayers and tax-exempt organizations that own or lease parking facilities for their employees are allowed to use any reasonable method to calculate the amount of non-deductible expenses. However, Notice 2018-99 provides a sample methodology that outlines a four-step process of identifying non-deductible parking expenses. The overall effect of this guidance provides that reserved and unreserved parking used primarily for employees are nondeductible expenses (UBTI for tax exempt organizations).

Notice 2018-99 also indicates that if parking expenses for an employee exceeds $260 per month, the employer is required to report any amount in excess of $260 per month in the employee's Form W-2. This reporting requirement could have significant implications regarding payroll, since employers should make appropriate calculations before year end to make their payroll tax deposit on applicable additional wages, and subsequently will need to report all Forms 941 and Forms W-2 by January 31, 2019.

In addition, the IRS issued Notice 2018-100 on Monday, December 10th, providing a waiver of estimated tax penalty relief for certain tax-exempt organizations to the extent they underpay estimated income tax due to changes in the tax treatment of certain QTFs. The relief is available for tax-exempt organizations for underpayment of estimated income tax payments required to be made before December 18, 2018, to the extent the underpayment is a result of the change in tax treatment of QTFs. Further, this waiver applies to tax-exempt organizations that were not required to file a Form 990-T for the taxable year immediately preceding the organization's first taxable year ending after December 31, 2017.

DHG Contact

Amy Bibby
Partner, DHG Tax
tax@dhg.com