

Commuter Benefits Ordinance 199-08

Factsheet and FAQ

Last updated 4/27/2009.

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 new Commuter Benefits Ordinance allows employers and workers to tap into an existing federal program to pay for transit passes and van pool 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. Some employers may find it more practical to hire a third-party administrator to manage their program.

What are the requirements of the new commuter benefits law?

All employers in San Francisco that have 20 or more persons 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 options:

- 1. Pre-tax Transit:** Employer sets up a deduction program under existing Federal Tax Law 132(f), which allows employees to use up to \$230 a month in pretax wages to purchase transit passes or vanpool rides.
- 2. Employer Paid Transit Benefits:** Employer pays for workers' transit fares on any of the San Francisco Bay Area mass transit systems or reimburses workers for their vanpool expenses. Reimbursements for transportation expenses must be of at least an equivalent value to the purchase price of a San Francisco MUNI Fast Pass, which is presently \$45.
- 3. Employer Provided Transit:** Employer offers workers free shuttle service on a company-funded bus or van between home and place of business.

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

For a complete list of qualified transit operators, rail lines, ferry services, please visit www.commuterbenefits.org.



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With commuter benefits, you or your employees can purchase bus passes with pre-tax dollars for Muni, AC Transit, Golden Gate Transit, SamTrans, and others

With commuter benefits, you or your employees can purchase rail passes with pre-tax dollars for BART, Caltrain, Muni, ACE, and others.

With commuter benefits, you or your employees can purchase ferry passes with pre-tax dollars for Golden Gate, Blue & Gold, etc.

With commuter benefits, you can use shuttle services to pick up your employees at home and take them to work.

Vanpool

Employees can use pre-tax dollars from their commuter benefits to pay for vanpool expenses.

In participation with 511.org, SF Environment can assist your employees with setting up a carpool or vanpool. Typically, vanpoolers have 7 or more passengers, including the driver. The van can either be owned or rented. Vanpoolers qualify for a discounted \$74/year on street parking space in San Francisco.

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.

What else can employers do to encourage smart commute options?

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 emergency can take a taxi or 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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Frequently Asked Questions

1. 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 allowance allowed by the Federal government went up to \$230/month. This 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.

2. 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.

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

Yes, an employee's eligibility could be calculated up to one month after hiring.

4. Is an employer based outside of San Francisco, but has employees who perform work in the City, 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.

5. What if an employee's hours fluctuate so that they might work over the minimum one month and not work 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.

6. 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. Request a copy of the Employer Compliance Form by emailing CommuterBenefits@SFGov.org. For more information, please visit our CommuterBenefits.org.

7. What records are necessary to show compliance?

The only official report that needs to be filed with the City is the Employer Compliance Form. Request a copy of the Employer Compliance Form by emailing CommuterBenefits@SFGov.org. Employers should also keep proof that they are operating a Commuter Benefits program in case of an audit.



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8. 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.

9. How do we know if an employee has worked enough hours to be eligible for Commuter Benefits?

Commuter Benefits must be offered to employees who worked at least an average of 10 hours a week in the previous calendar month. To calculate if an employee has worked at least 10 hours a week, take the amount of hours worked over the previous calendar month and divide by 4, even if the calendar month has more than 4 weeks. Please note that employers are welcome to offer the benefit to employees who work less than 10 hours a week, though it is not required by the San Francisco ordinance.

10. 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.

11. 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 Department of the Environment by calling (415) 355-3727 or emailing CommuterBenefits@SFGov.org.



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