

NEW YORK EMPLOYMENT LAW

New York City: Commuter Benefits



BBP Admin
BENEFITS ADMINISTRATION
COBRA, FMLA, FSA, HRA, HSA, TRANSIT
info@bbpadmin.com
www.bbpadmin.com
630 773 2337

STATE RESOURCES

The Affordable Transit Act

The [law](#) requires New York City employers to offer pre-tax commuter benefits.

FAQs

The DCA has published these [answers](#) to frequently asked questions about the commuter benefits law.

Eligible Transit Services

The DCA has an approved [list](#) of mass transit providers.

Employers with 20 or more full-time employees in New York City must offer their full-time employees the opportunity to use pre-tax income to pay for their commuting expenses. A commuter benefits program can provide tax savings to both employers and employees—Employers can save by reducing their payroll taxes and employees can lower their monthly expenses by using pre-tax income to pay for their commute.

COVERED EMPLOYERS

New York City employers with **20 or more full-time employees** are subject to the commuter benefits law. A full-time employee is an employee who works an average of 30 hours or more per week in the most recent four weeks, any portion of which was in New York City.

Public employers and employers that are exempt from federal, state and city payroll taxes are not subject to the Act. Unionized employers are also exempt from the requirement unless they have 20 or more full-time employees who are not covered by a collective bargaining agreement (CBA). In such circumstances, the employer must offer the benefit to those employees not covered by a CBA.

REQUIREMENTS

New York City's commuter benefits law requires covered employers to offer full-time employees the opportunity to use pre-tax earnings to purchase qualified transportation fringe benefits in accordance with federal law. Under federal law, employees can currently use up to \$270 a month of their pre-tax income to pay for qualified transportation benefits.

Employers must keep records that demonstrate that each eligible full-time employee was offered the opportunity to use pre-tax income toward the purchase of covered transit within the first four weeks of employment. Employers may maintain these records electronically.

ELIGIBLE TRANSPORTATION

Employers must offer their full-time employees the opportunity to use pre-tax income to purchase qualified transportation fringe benefits on all eligible public or privately owned mass transit or in a commuter highway vehicle with a seating capacity of six or more passengers. For example, eligible commuter expenses include the following:

NEW YORK EMPLOYMENT LAW

New York City: Commuter Benefits



- New York City regional mass transit services, including Metropolitan Transportation Authority (MTA) subway and bus; MTA Long Island Rail Road; Amtrak; New Jersey Transit; and Metro-North
- Eligible ferry and water taxi services
- Eligible vanpool services and commuter bus services
- Access-A-Ride and other area paratransit providers

Employees may also use ridesharing transportation platforms, such as through Lyft or UberPOOL, that offer transportation in a shared vehicle with a seating capacity of at least six adults (not including the driver).

INELIGIBLE TRANSPORTATION

New York City's commuter benefits law does not cover the following expenses:

- Carpooling expenses in an employee-owned vehicle
- Bicycling expenses, including CitiBikes.

Also, although New York City's commuter benefits law does not require employers to cover parking expenses under their commuter benefits program, federal tax law allows employees to use pre-tax income to pay for these expenses.

In addition, under federal tax law, employees cannot use pre-tax income for the qualified bicycle commuting reimbursement benefit, and the federal tax exclusion for employer-paid bicycle commuter benefits has been suspended until Jan. 1, 2026.

PENALTIES

New York City's [Department of Consumer Affairs](#) (DCA) enforces the commuter benefits law. A civil penalty of \$100 to \$250 can be imposed for the first violation. Employers have 90 days to rectify the first violation before a penalty is imposed. After the 90-day period, every 30-day period that an employer fails to offer pre-tax commuter benefits constitutes an additional violation. A civil penalty of \$250 will be imposed for each subsequent violation. A civil penalty will not be imposed on any employer more than once in any 30-day period.