

**Congress of the United States**  
**Washington, DC 20515**

September 28, 2020

The Honorable Charles P. Rettig  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, DC 20220

Dear Commissioner Rettig,

We are writing to urge the Internal Revenue Service (IRS) to issue guidance on qualified transportation fringe benefits with respect to unused commuting funds and to consider additional relief for certain employees impacted by the ongoing COVID-19 crisis.

In our districts on Long Island and the surrounding New York City metropolitan area, many employees take advantage of pre-tax transportation benefits programs through their employers to save money annually on their commuting costs. As New York quickly became one of the hardest hit states by COVID-19 earlier this year, many people were forced to work from home for indefinite periods of time. Workers across industries faced uncertainty about their employment, with many employees not knowing if or when they would be able to return to work. Many individuals and businesses continue to face disruptions during this challenging time.

Employees enrolled in transportation benefits programs generally elect to have a certain amount per month of their pre-taxed wages deducted from their paychecks to pay for commuting costs. Current IRS regulations generally allow employees to change or revoke elections related to qualified transportation fringe benefits before the beginning of a pay period. While this allows flexibility in the amount employees may contribute towards their transit expenses on a month to month basis, the COVID-19 national emergency has resulted in a number of cases where individuals have accumulated unused funds that they can no longer access or utilize as intended.

In some cases, commuters did not suspend their benefit elections in time to avoid the monthly deduction from their paychecks. Other individuals who already had accumulated unused funds in commuter accounts were no longer able to use these benefits as planned due to workplace disruptions caused by the pandemic. Although these funds can generally be used for future commuting costs, many people still do not expect to resume their normal commute for the foreseeable future. This situation has also created confusion around commuter benefits programs that are administered by a third-party provider, such as WageWorks. While IRS regulations permit unused benefits to be carried over across periods, these plans vary across employers and third-party providers.

Current regulations also require that an employee must forfeit any unused commuter benefits upon termination from employment. This is concerning for employees who may face termination due to COVID-19. As you know, businesses nationwide are experiencing financial hardship and facing challenges with employee retention as a result. If an employee is terminated due to COVID-19, he or she will lose any unused funds that have accumulated in a commuter account. These individuals may be forced to forfeit a significant amount of unused commuter benefits that they were unable to access as a result of this ongoing crisis and at no fault of their own.

Many workers and families are in critical need of financial assistance during these challenging economic times and could greatly benefit from direct access to these unused commuter funds for other essential purposes. Therefore, we urge you to consider any available options within the IRS's regulatory authority to provide targeted relief for individuals who have accumulated unused transportation benefits due to the ongoing pandemic. Additionally, we strongly encourage the IRS to issue further guidance related to unused transportation fringe benefits to address any ongoing confusion among employees, employers, and third-party providers.

Thank you for your consideration.

Sincerely,



Kathleen M. Rice  
Member of Congress



Lee Zeldin  
Member of Congress



Peter T. King  
Member of Congress



Thomas R. Suozzi  
Member of Congress



Gregory W. Meeks  
Member of Congress