TransitCenter®

The Case to Maintain the Commuter Benefit Cap

Congressional Action Required to Continue "Win-Win" Initiative Supporting Workers, Business, Mass Transit, the Environment and Energy Independence

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Overview and Summary

Imagine an idea that could effectively slash taxes for millions of American workers, reduce payroll taxes for thousands of U.S. businesses, cut congestion on the nation's major commuter arteries and eliminate almost 8,000 pounds of CO_2 emissions per person, per year without onerous government regulation – all in one swoop.

Here is the good news: The program offering those benefits has been a reality for over 20 years. The bad news? This initiative, boasting rare "what's-not-to-like" economic, environmental and quality-of-life benefits now faces the prospect of dramatic weakening – unless Congress renews the full benefit as it finalizes the fiscal 2011 budget in October of 2010.

The Issue

Over 20 years ago, a simple yet ingenious idea took root: Allowing workers to defray mass transit costs through their employers' benefits packages. As a result, in 1987 TransitCenter introduced TransitChek®, the nation's first commuter benefits program, giving employers the ability to allow employees to pay for their transit commuting costs as a fringe benefit. Several years later (1998), the Internal Revenue Service codified commuter benefits under Section 132(f), which allowed employees to take advantage of the benefit using pretax dollars. Today, tax-free commuter benefits are enjoyed by approximately 850,000 commuters nationwide and have joined health, retirement and disability at the top of the list of benefits offered by companies.

In 2009, the American Recovery and Reinvestment Act -- recognizing the program's efficacy, nearly doubled to $230 the monthly pretax cap commuters could spend on the benefit (compared to $120). This new higher benefit also created parity between mass transit and commuter parking benefits, promoting the use of eco-friendly modes of transportation while saving money for users of our nation's mass transit system. Now, as the economic stimulus winds down and Congress turns to the new fiscal year budget, the monthly cap threatens to revert back to $120 on December 31st unless action is taken.

In this paper we will argue, citing objective evidence from noted third-parties, why the elimination of the $230 monthly cap will squander important economic and environmental benefits, and run counter to our nation's recognized and urgent priorities to stimulate the economy, reduce dependence on Middle East oil, restrict greenhouse gas emissions and develop a sound transportation strategy.

The Consequences:

Is a $110 monthly reduction all that important? Experts think so.

A just completed independent analysis by the New York-based management consulting firm Bennett Midland shows that for a worker currently spending $230 per month on mass transit, the cap reduction would increase commuting cost by 18 percent. What is more, as a consequence of the monthly cap reverting to previous levels, mass transit ridership nationally could plunge by an estimated 5% to 9% among users of commuter benefits, according to Bennett Midland.

The economy is already forcing transit agencies nationwide, from New Jersey to Northern Virginia to Southern California, to increase their fares in light of tighter operating budgets.
As a result, "Reducing the benefit cap would be like commuter savings and mass transit operators hitting the third rail," says Dan Neuburger, President and CEO of TransitCenter, a pioneer in establishing tax-free commuter benefits.

The Origins of a "Win-Win" Policy

Commuter tax benefits were first established, on a modest level, in the mid-1980s, largely as an effort to redress IRS policy that treated free employee parking as a tax-free fringe benefit – a policy that encouraged employees to drive to work even when mass transit alternatives existed. Shortly thereafter, a consortium of New York City transportation, business and civic groups launched TransitCenter, which quickly demonstrated the broad success and appeal of the commuter benefits concept.

Armed with this evidence, a national coalition rapidly formed behind the idea. Congress, in 1998, codified the concept into a single IRS statutory provision, Internal Revenue Code Section 132(f), which allows a person to pay for the costs of mass transit commutes using pretax earnings, the amount limited by a statutory cap. And in 2008, San Francisco passed a law requiring employers with 20 or more employees to provide commuter benefits to those employees who work in San Francisco. Today, an estimated 28% of all employers nationwide offer the pretax commuter benefit, covering 44% of employees.

Tax-free commuter benefits can only be provided through employee-funded pretax payroll deductions or employer-funded or partially funded benefits. They can be delivered as a transit provider-specific pass, universally accepted voucher or terminal-restricted debit card, or cash reimbursements under strict IRS rules (where vouchers are not readily available). The benefit covers commuter rail, subway and bus transportation, eligible vanpools and commuter-related parking.

Building on Success: The Economic Stimulus and the New Monthly Cap

Congress, recognizing the popularity and power of the idea, has steadily raised the amount of pretax dollars permitted to be earmarked for mass transit costs. Specifically, in 2009 via the American Recovery and Reinvestment Act (the Economic Stimulus Plan), it raised the cap to $230 per month from $120.

Several considerations underlay this decision:

- Investing in Success: Tax-free commuter benefits are a proven example of a successful government incentive that brings a rare combination of both economic and environmental benefits without direct government intervention. In short, this is the kind of program that has appeal across the political spectrum.

- Addressing Costs: Impacted by state and municipal budget crises, commuter costs have escalated nationwide. Experts estimate that 30% of workers who use the benefit now pay more than $120 per month in commuting costs. The new monthly cap has brought the benefit more into line with these realities.

- Achieving Parity: the private parking tax benefit referenced earlier now stands at $230 per month; in order to keep tax policy from encouraging the use of single occupancy vehicles rather than the use of mass transit, as it once did, legislators brought the commuter benefit into line.

Officials on the front lines of promoting mass transit ridership applauded the decision to raise the monthly cap.

“The support of public transit [via the cap increase] again demonstrates that win-win solutions can be found to answer both our economic and environmental needs,” said Dorothy Dugger, of San Francisco’s Bay Area Rapid Transit (BART) system.

“Given the economic pressures our riders are under,” said Steve Schlikman of the Regional Transportation Authority of Chicago, “the $230 cap couldn’t have come at a better time.”

What’s At Stake: The Bennett Midland Analysis

What precisely is at stake if Congress reduces the monthly benefit cap from $230 to $120?

In August, an independent management consultant commissioned by TransitCenter addressed that question. Bennett Midland concluded that lowering the monthly cap would result in three related, negative impacts:

- Increased Costs for American Workers: Commuters using the benefit and spending $230 per month on mass transit will see their effective commuting costs increase by 18%.(1) All commuters with a commuting cost of more than $120 a month would see those costs increase.

  (1) Assumption of tax rate at the national average of 31.6%

- Declines in Mass Transit Usage: An increase in the cost of commuting is expected to reduce mass transit ridership by as much as 9% among commuter benefit users.

- Lower Revenue for Operators: The decline in ridership would mean decreased revenue for mass transit operators, leading to further pressure for fare increases.

Bennett Midland data confirmed that the old $120 monthly cap has been surpassed by fare hikes across the country. In the New York metropolitan area, for example, the minimum monthly pass for each of the region's three commuter rail systems exceeds $120. On Metra, Chicago's commuter rail, nearly 35% of all monthly passes are in excess of $120.

Finally, Bennett Midland confirmed that the 2009 monthly cap increase attenuated declines in mass transit usage during the economic slowdown, and has had an immediate and positive impact on benefit enrollment growth.

What's At Stake: The Current Cap Benefits Energy Independence and the Environment

Eliminating the $230 monthly cap represents a blow to the powerful environmental and energy benefits associated with mass transit, which the American Public Transportation Association calls, "one of the most effective strategies to reduce energy consumption and improve the environment without imposing government mandates or regulations."

Public transportation is twice as fuel efficient as private automobiles. Annually, mass transit saves an amount of energy comparable to one month of oil imports from Saudi Arabia. At current usage levels, public transportation reduces carbon emissions by nearly 750,000 tons per year, comparable to nearly three-quarters of carbon emissions by all U.S. chemical manufacturers.

The Metropolitan Transit Authority (New York) estimates that mass transit currently removes three million drivers from the New York City area roads each day, avoiding more carbon emissions than 648,000 acres of forest absorb.

TransitCenter data shows that 41% of employees who use its benefit increase their use of mass transit during the week and 46% do so on weekends.

What's at Stake: The Current Cap Drives Enrollment

One of the keys to expanded use of the tax-free benefit is getting employers to offer it. A recent survey of companies with at least one office in the metropolitan areas of New York, Chicago or San Francisco – the three largest transit markets in the U.S. -- shows that the $230 monthly cap has been a strong spur to participation, both on the part of employers offering the benefit and employees participating in it.

- TransitCenter reports that 17% more firms offered the pretax commuter benefit in 2010 (the first full year following the cap increase) compared with 2009.
- Employee enrollment increased considerably during this period, especially at medium and large companies.
- Forty-two percent of employers report that employees participating in the benefit increased their pretax deduction as a result of the cap increase.

The TransitCenter survey also suggests that a monthly cap reduction could even have more sweeping business consequences. Forty two percent of employers in the survey said that a reduction in the present cap could encourage some employees to look for work closer to home. It would also reduce payroll tax savings currently enjoyed by participating employers.

Conclusion

The risk facing the country and Congress in the months ahead is that of the path not taken. Failing, for whatever reason, to reaffirm the $230 monthly cap represents a step back from a successful and time-tested idea that brings our country clear and multiple benefits as we grapple with the challenges of economic weakness, energy dependence and global warming.

To reiterate to whom and how the $230 monthly cap brings benefits:

- American Workers: the $230 monthly cap aids approximately 850,000 employees at a time when working families are struggling. Reducing the $230 monthly cap to its pre-stimulus level ($120) would effectively increase commuter costs to enrolled employees by up to 18%.

- American Businesses: eliminating the present monthly cap represents an effective increase in payroll taxes for participating businesses.

- The Environment: The increase in commuter costs noted above will spur a decline in mass transit usage – up to 9% among commuter benefit participants nationally according to a noted consultant. This will abet a host of harmful environmental impacts, including increased greenhouse gas emission, highway congestion and energy consumption.

- Mass Transit Operators: Already reeling from state and municipal budget shortfalls, operators will suffer a further revenue blow from the ridership declines the cap reduction portends.

- The new cap is spurring enrollment: Studies and trends show that the new monthly cap, just 18 months old, has been an important stimulus to enrollment in the benefit on the part of employees and employers.

- The old monthly cap is inadequate: Up to one-third of American commuters spend more than $120 per month (the level of the old cap) on mass transit, according to the TransitCenter 2010 Commuter Impact Survey.

- The old cap is unfair tax policy: Eliminating the $230 monthly cap means that Congress will have betrayed the founding principle of the commuter benefit: keeping the private parking benefit at parity with the mass transit benefit.

Finally, the new monthly cap secures all these benefits without the heavy-hand of direct government intervention in the form of business or environmental regulation.