

EMPLOYEE SUBSIDY TRACKING GUIDELINES

Introduction

The *Employee Subsidy Tracking Guidelines* are supplemental to the *Use of Public Funds in State Agency CTR Programs* guidelines adopted by the Interagency Task Force (ITF), January 1997. These guidelines are designed to provide a process for agencies to follow when they offer CTR subsidies to their employees.

Background

RCW 43.01.230 authorizes state agencies to use public funds to “financially assist agency-approved incentives for alternative commute modes, including but not limited to carpools, vanpools, purchase of transit and ferry passes, and guaranteed ride home programs, if the financial assistance is an element of the agency’s commute trip reduction program as required under RCW 70.94.521 through 70.94.551.” Agencies are required to comply with IRS rules.

The Washington State Constitution (Article 8, Section 5) does not allow the State to give or lend credit to individuals, associations, companies or corporations. Giving an employee a subsidy *before* the employee has met the requirements of the agency’s CTR program would be considered a loan of the state’s credit. To avoid any questions, agencies must adopt a policy of **reimbursement** to the employee rather than a policy for pre-payment.

Because state agencies use public funds to support CTR subsidies and incentives, agencies must provide documentation that the public funds are used prudently as well as effectively. Agencies must be able to document to an auditor that the funds were used legally and that care is taken so that the subsidy program does not abuse the principle of the lending of public credit.

For auditing purposes, agencies must be able to provide documentation that the employees receiving subsidies for using an alternative commute mode did indeed use the alternative commute mode *prior* to receiving the subsidy.

Definitions

- ◇ **Subsidy:** Financial assistance given by one person or government to another. (Webster)
Subsidize: To support or assist with a subsidy. (Webster)
Subsidies and CTR: Financial assistance provided to state employees using alternative commute modes and as an incentive in CTR program elements. Alternative commute modes include walking, bicycling, bus, rail, ferry, carpools and vanpools. Subsidies are not provided for telework or alternative schedules (compressed workweek) because these work options are considered incentives in themselves.
- ◇ **Incentive:** Elements of a CTR strategy designed to motivate or encourage employees to use alternative commute modes. Examples: promotional items used to promote participating in a commuter campaign and preferential parking for high occupant vehicles (carpools/vanpools).
- ◇ **Electric Vehicle Commuting:** In June 2006, the State Ethics Board passed a ruling that a state employee can use state-supplied electricity to charge batteries in privately owned vehicles while at work. The use of state provided electrical outlets for the purpose of recharging electric vehicle batteries as a commute incentive must be included in the agency’s CTR program. Electric vehicles include cars, Segways and electrically driven or assisted bicycles and scooters.

In 2008 RCW 43.01.250 was passed by the Legislature: “It is in the state's interest and to the benefit of the people of the state to encourage the use of electrical vehicles in order to reduce emissions and provide the public with cleaner air. This section expressly authorizes the purchase of power at state expense to recharge privately and publicly owned plug-in electrical vehicles at state office locations where the vehicles are used for state business, are commute vehicles, or where the vehicles are at the state location for the purpose of conducting business with the state.”

IRS Rules:

- ◇ Subsidies for bus, vanpool, rail, and/or ferry are **not taxable** to the employee if the subsidy is at or below the rate established in federal regulations. IRS rules (Section a32 (f)(2)(A) state that the employer may provide cash reimbursement if a “voucher or similar item that may be exchanged only for a transit (bus, vanpool, ferry) pass is not readily available for direct distribution to the employee.” In other words, if vouchers or transit passes are not available from transit agencies. In Washington, vouchers and passes are readily available to employers, therefore must be used if the employee is to receive a non-taxable subsidy.

Note: If the amount of subsidy provided to an employee for bus/vanpool/ferry exceeds the actual cost of the fare, the amount above fare cost is taxable to the employee. For example if the cost of a bus pass is \$20/month and the agency pays the employee \$30 to use the bus, \$10 of the subsidy would be taxable to the employee.

- ◇ Subsidies for carpool, walking, and/or bicycling are considered cash and are **taxable** income. *Note:* motorcycles are not an alternative commute mode unless there are two people on the motorcycle as the aim of CTR is to eliminate commute trips, i.e. takes at least one vehicle off the roadway. One person on a motorcycle does not take another vehicle off the roadway.
- ◇ Incentives and promotional items given randomly or as promotional items are considered de minimis (not significant) and are **not taxable** to the employee unless given to the same employee on a regular basis.
- ◇ Parking is considered a Qualified Transportation Benefit to the employee by IRS, Section 132(f)(2)(B). If the value of an employee’s parking space is valued at more than the amount allowed in the IRS Rules and is provided free to the employee, any amount over the allowable rate is taxable to the employee.

Note: Updates on the Qualified Transportation Benefit levels will be provided to state agencies when the allowable rates change.

- ◇ **Commuter Vouchers:** Vouchers for various dollar denominations can be purchased from private vendors. Vouchers cannot be redeemable for cash but may be used as cash to purchase or to offset the purchase of bus, rail, train, ferry passes, or vanpool fares. Vouchers are **nontaxable** to the employee if given in an amount at or below the rate established in federal regulations. Vouchers may be used at all transit agencies in Washington.

Subsidies are taxable when paid in cash for any of the following commute modes:

- ◇ Carpool
- ◇ Walking
- ◇ Bicycling
- ◇ Bus
- ◇ Vanpool
- ◇ Ferry
- ◇ Train and light rail

Subsidies are not taxable if paid with vouchers, transit passes including smart cards such as the ORCA Card and for only the following transit modes:

- ◇ Bus
- ◇ Vanpool
- ◇ Ferry
- ◇ Train and light rail

Subsidy Payments

Agencies that choose to provide financial subsidies to employees must ensure that the program usage is well documented. The subsidies provided to the employee must be a reimbursement (reward) for using an alternative commute mode rather than a pre-paid subsidy or incentive for commute trips not yet taken.

Documentation

Commuter Trip Reduction Coordinators or Employee Transportation Coordinators who have been given the authority to verify employees' commute modes and provide approval for subsidy payment must be able to provide documentation that the employee has met the agency's CTR policy criteria for alternative commute mode use and therefore entitled to the subsidy.

A “policy of reimbursement” means that the employee must pay the cost for his/her first month’s alternative commute and then request the subsidy as a reimbursement.

Example 1: Tom decided to commute by bus beginning in January and his agency provides up to \$20 a month subsidy towards a bus pass. Tom buys a monthly bus pass from his local transit agency and keeps his receipt. At the end of January, Tom takes his receipt and signed calendar to his ETC and requests his reimbursement. The ETC gets Tom's signature acknowledging that he has met the agency's CTR criteria and gives him a commuter bonus voucher (which Tom also signs) worth \$20. Tom takes the voucher to the transit agency and uses it to purchase a monthly pass for February. This same process would hold true for vanpools and ferries. One-year later, Tom leaves the agency. He may receive his last month's bus subsidy as a tax-free cash reimbursement on his last payroll check. *Note:* None of the subsidies (for bus, vanpool or ferry) are taxable to the employee if the subsidy is at or below the rate established in IRS Rules.

Example 2: Sally commutes three to four times a week by bicycle, Roger walks daily, and Sue and John are in carpools. The agency's CTR program provides a taxable \$25/month cash subsidy for these modes. At the end of the first month, each employee submits a signed calendar showing the days they commuted in an alternative mode. At the end of each quarter, the ETC provides the names and amount of taxable subsidy to the payroll office. The subsidy amount is added to the employees' paycheck and the proper taxes are withheld.

One Regional Card for All (ORCA)

An option available to state worksites in Snohomish, King, Kitsap, and Pierce counties is the ORCA card. The ORCA card is like a computer, containing a processor, operating system, data memory, communication port and power supply – all in a plastic card the size of a credit card.

The ORCA card is a contact-free smart card and is valid on Community Transit, Everett Transit, King County Metro, Kitsap Transit, Pierce Transit, Sound Transit and the Washington State Ferries.

State agencies may contract for an ORCA card for their employees who commute on transit or in a vanpool. The first year's cost to the agency/worksites is based on the level of ridership determined by a survey (either the most recent employee CTR survey or one conducted by the local transit agency). The second year's contract will be based on the actual usage of the ORCA card from data gathered when the cards are used. Agencies may charge the employee up to half the cost of the ORCA card.

Another option is the E-Purse where up to \$300 can be stored. The E-purse can be used for transit, train, and ferry fares. Employees who purchase an E-Purse can put the value of CTR vouchers paid by their agency on their card.

For information on the ORCA card see: <http://www.orcacard.com/>

State Agency Rider (STAR) Pass Program

All state employees assigned to a worksite in Thurston County are eligible to receive a STAR Pass enabling them to utilize – without charge – any Intercity Transit route, at any time and for any purpose, including the Olympia Express route between Pierce and Thurston counties. The STAR Pass is not valid on Pierce Transit buses. However, employees commuting from Pierce County to their assigned worksite in Thurston County are eligible for a small subsidy for each trip taken on the Olympia Express in a Pierce Transit bus (Routes 601 and 603A). The STAR Pass subsidy is also available to state employees who live in Mason or Grays Harbor counties. See www.ctr.wa.gov/employees/starpass.htm for details.

The STAR Pass is pre-paid by the State. Employees wanting a STAR Pass are required to sign-up for the program through their agencies.

Employees who have State picture identification (ID) receive a validating STAR Pass sticker for their ID card that identifies them as a state employee to the Intercity Transit bus drivers. Those without an agency picture ID card receive a STAR Pass card with picture ID. The validating STAR Pass sticker enables them to ride the transit system.

Note: Employees in agencies that offer a per trip cash subsidy for using any alternative mode, may collect the taxable cash subsidy from their agency for any trips taken using their STAR Pass.

Agency Subsidy Policies

Agencies providing CTR subsidies must adopt and make available to their employees a CTR subsidy reimbursement policy. This is crucial, especially if employees are receiving cash, because the employee may use the cash for any purpose. The policy must outline how employees will provide the documentation that they have met the agency's minimum CTR requirements. Bus, vanpool and ferry subsidies at or below the rate established in federal regulations are not taxable to the employee. All subsidies for carpooling, walking, and bicycling are taxable to the employee.

◇ Documentation must be kept by the agency for each general accounting period.

- ◇ Employees must submit a *signed* calendar (or similar documentation) stating that the conditions of the agency's CTR subsidy program have been met. Sample monthly non-taxable and quarterly taxable subsidy tracking calendars can be found and downloaded at www.ctr.wa.gov/employers/guide.htm.
- ◇ Documentation must have an original signature. Faxed signed statements are acceptable. Agencies may set up a process for accepting electronic calendars and signatures.

Examples of documentation may include:

- ◆ *Signed* monthly calendars
- ◆ *Signed* receipts from purchased bus or ferry passes or vanpool fares
- ◆ *Signed* vouchers
- ◆ *Signed* state A-19 forms (only in areas where vouchers are not available)
- ◆ Other *signed* documentation method that has been approved by the agency

Requirements for Subsidy Policies

Note: Agencies must submit their subsidy policies to WSDOT for review before they can receive the CTR cash subsidy code from OFM.

- ◇ Agency policy shall determine the minimum times per week/month/quarter an employee must use an alternative commute mode to be eligible for a CTR subsidy. An employee's scheduled work days may exclude sickness, annual leave, extensive work related travel, or other reasons determined by the agency.
- ◇ Employees must travel using the mode for which they are receiving the subsidy for more than half of their commute distance. If it is truly a 50/50 split, the agency must make the determination for the mode subsidy, but in no case shall an employee receive a subsidy for more than one mode. If an employee uses more than two modes, the agency must determine which mode(s) will be included. Example: an employee carpools three miles to the ferry, crosses the bay, and uses transit or walks the last mile to the worksite. The agency could provide the subsidy for the carpool (taxable) or the ferry and the bus (non-taxable) but not both. Walking in this instance would not meet the longest distance mode.
- ◇ Subsidies may be set up on daily or trip use basis (i.e. \$.50/day or \$1/trip). Agency policy shall determine the minimum number of one-way trips needed to qualify for a subsidy. Cash subsidies are taxable to the employee.

Payment Methods:

- ◇ Transit (bus, rail, vanpool, ferry) subsidies, per IRS rules, must be paid with a voucher that can be exchanged only for a bus/ferry/rail pass or vanpool fare. Transit passes or smart cards (such as the ORCA card) may be provided in lieu of a voucher.
- ◇ Subsidies for non-transit modes (carpool, walking, bicycling) are taxable and should be paid at least quarterly. The most convenient method would be through payroll deduction since income tax must be withheld.
- ◇ Subsidies may be set on a per-use system. For example, 50 cents per each day carpooling or \$1/trip (up to \$2/day.) Once the employee has reached the agency's threshold for participation for the month (for example 50%+) the full subsidy could be received. *Note:* A

per trip program is preferable over a per day program because there may be times when an employee carools to work and takes a state vehicle home or goes home in some other mode. If you pay by the day, you need to be clear about whether the employee must use the mode for both of their trips or just one.

- ◇ Parking Reimbursement: If an agency's CTR Program's carpool incentive includes reimbursement for parking already paid by the employee, the agency may *reimburse* the employee no more than the actual cost of the parking fee. Example: Agency A's carpool policy offers free parking to two-person or more carpools and the cost per person to park is \$15/month. Agency A may *reimburse* the employee the \$15.00 monthly parking fee as part of their carpool incentive policy. The reimbursement may be requested on the employee's travel voucher. Documentation of payment (i.e. payroll deduction) must be presented.

Note: if an employee were to receive more than their actual parking fee, the additional amount provided would become a cash subsidy and would be subject to the IRS rules.