



# Frequently Asked Questions: Transportation Benefits Equity Amendment Act of 2020

## Table of Contents

You can navigate to any point in the FAQ by using Ctrl+Left click on any of the headers in the table of contents.

<b>General Information</b> .....	<b>3</b>
What is the Transportation Benefits Equity Amendment Act of 2020? .....	3
Who is covered by the law? .....	3
Who is exempt from compliance? .....	3
How do we comply with the law? .....	3
How does the law define “parking benefit”?.....	4
When are we required to be in compliance? .....	4
How is compliance assessed?.....	4
What are the reporting requirements? .....	5
Where can I find help complying with the law?.....	5
I’ve also heard the Act referred to as the DC Parking Cashout Law, what is parking cashout?.....	5
<b>Compliance Option #1: Clean Air Transportation Fringe Benefit</b> .....	<b>6</b>
What is a Clean Air Transportation Fringe Benefit? .....	6
How do we set up the Fringe Benefit? .....	6
What if an employee doesn’t use the entire amount of the Benefit for transportation? .....	7
Can commuters who don’t use transit or vanpool accept the Fringe Benefit?.....	7
<b>Compliance Option #2: Clean Air Compliance Fee</b> .....	<b>7</b>
We have chosen to pay a Clean Air Compliance Fee, how do we calculate the amount due? .....	7
Where is the fee paid, and where does the money go? .....	7
We plan to offer the Clean Air Transportation Fringe Benefit. Do we need to pay the Clean Air Compliance Fee for employees who turn down the Fringe Benefit?.....	7
<b>Compliance Option #3: Create a TDM Plan</b> .....	<b>8</b>

What is a Transportation Demand Management (TDM) plan?.....	8
How would we create a TDM Plan to comply with the law? .....	8
Where can we find examples of strategies that could be included in a TDM Plan? .....	8
What is the approval process for the TDM Plan?.....	8
What happens if the TDM Plan is not approved? .....	8
What year or point in time is used for measuring reduction in driving?.....	9
How are “commuter trips” measured?.....	9
We are already below the 25% driving threshold. Are we compliant with the law? .....	9
<b>Specific Workplace Scenarios .....</b>	<b>9</b>
Are Pre-Tax Employee Paid Parking Benefits considered a parking benefit under the law? .....	9
We are a university with a pre-existing Campus Plan that does not expire for several years. What are we required to do? .....	9
My organization has multiple office locations in the District, how would this affect our compliance strategy? .....	9
At my organization only a subset of employees are offered parking benefits, are we still required to comply? .....	10
Does the Act supersede or break previously existing agreements? .....	10
We are fully remote and are not sure when we will return to in person work. Are we still required to comply? .....	10
Is it possible to receive partial parking benefits and a partial Clean Air Transportation Fringe Benefit? .....	10
We provide matching contributions to employee paid pre-tax parking benefits. Is this a “parking benefit” under the law?.....	10
Does the law affect our existing commuter benefits?.....	10
We are using a hybrid work model and work in office part time. How would that affect compliance?.....	11
The Law mentions that increased contribution to health coverage can be used as part of the Fringe Benefit. How would we do this? .....	11
What constitutes an employee who is required to use their personal vehicle for regular performance of their work? .....	11

# General Information FAQs

## What is the Transportation Benefits Equity Amendment Act of 2020?

An amendment to the Sustainable DC Omnibus Amendment Act of 2014 that seeks to further equity in the provision of transportation benefits by ensuring that non-driving commuters receive equal benefits as commuters who drive to work.

## Who is covered by the law?

District employers who have 20 or more employees, lease their parking, and provide a parking benefit to employees.

## Who is exempt from compliance?

Employers who:

- Own their parking
- Use public parking
- Are part of the Federal Government
- Are a university with an existing Campus Plan
  - You must comply when your plan expires, regardless of extension or continuation clauses
- An organization with an existing Transportation Demand Management Plan, until the plan's end date
- Are currently in the middle of a parking lease signed before October 2020
  - When you sign a *new* parking lease, you are required to comply with the law, regardless of extension or continuation clauses

## How do we comply with the law?

There are three different ways to comply. If you are covered by the law and are not an exempted employer, you must implement one of the following options by the reporting deadline of January 15<sup>th</sup>, 2023. Specific sections on each of the compliance methods can be found later in the FAQ.

- Option 1: Offer a Clean Air Transportation Fringe Benefit in an amount equal or greater than the market value of the parking benefit offered to employees. The Fringe Benefit is available to all employees who are offered the parking benefit, and employees must

decide if they want to keep their existing parking benefit or give up the parking benefit and accept the Fringe Benefit, they cannot be received at the same time.

- Option 2: Pay a Clean Air Compliance Fee equal to \$100/month per employee offered parking benefits.
- Option 3: Develop and implement a Transportation Demand Management (TDM) plan that will reduce driving as a commute mode by 10% from the previous year, until driving represents 25% or less of the commuting mode split. There are specific provisions for TDM Plans that are outlined in the law as well as later in the FAQ.

Alternatively, if you decided to stop offering free or subsidized parking benefits, you would be removing yourself from coverage by the law.

### **How does the law define “parking benefit”?**

A parking benefit is defined as personal vehicle parking within half a mile of a business that employees utilize for free or less than the market rate. The law states that:

“Parking benefit means personal motor vehicle parking, on or within 0.5 miles of the business premises and located in the District, offered to an employee, in addition to compensation, either directly by the employer or through an employer subsidy, for which the employee pays nothing or less than market value. The term “parking benefit” does not include parking that is offered to an employee who is required to use a personal motor vehicle in the regular performance of his or her work.”

### **When are we required to be in compliance?**

Regardless of which compliance option is chosen, covered employers must be in compliance by the reporting deadline of January 15<sup>th</sup>, 2023. If you are covered by the law but meet one of the exemptions, such as a parking lease signed prior to October 2020, you must still complete the reporting process and disclose your temporary exemption.

### **How is compliance assessed?**

Compliance is assessed through the required reporting of relevant data to the DDOT Director every two years. The first reporting deadline is January 15<sup>th</sup>, 2023. If you choose to create a TDM Plan, yearly tracking of success metrics is required.

## What are the reporting requirements?

Compliance is tracked through reporting to be submitted every two years to the DDOT Director. The first round of reporting is due in January 2023. Quoting from the law,

*“Each covered employer shall submit to the Director of DDOT a report every two (2) years, with the first report to be submitted by [January 15<sup>th</sup>, 2023], that includes:*

- a. The total number of employees;*
- b. The number of employees:*
  - 1. Offered a parking benefit;*
  - 2. Using a parking benefit;*
  - 3. Offered a Clean-air Transportation Fringe Benefit;*
  - 4. Using a Clean-air Transportation Fringe Benefit; and*
  - 5. For whom the covered employer is paying to DDOT the \$100 Clean Air Compliance Fee;*
- c. The market value of the Clean-air Transportation Fringe Benefit for the covered employer; and*
- d. Whether any of the exceptions in § 3312 apply to the covered employer, including:*
  - 1. If the exception in § 3312.1 applies, the date on which any owned parking spot was purchased by the employer;*
  - 2. If the exception in § 3312.2 applies, the date on which the current lease term will end, disregarding any contemplated lease extensions beyond the current term;*
  - 3. If the exception in § 3312.3 applies, the date on which the previously approved transportation demand management plan will expire; or*
  - 4. If the exception in § 3312.4 applies, the date on which the current Campus Plan expires, disregarding any contemplated term extensions. “*

## Where can I find help complying with the law?

The goDCgo Employer Services team can help with all aspects of compliance with the law, from understanding whether your organization is required to comply to creating a step-by-step plan for compliance. For assistance contact [info@goDCgo.com](mailto:info@goDCgo.com) or [schedule a meeting](#).

## I’ve also heard the Act referred to as the DC Parking Cashout Law, what is parking cashout?

Parking Cashout is a principle in which recipients of parking benefits have the option to keep their benefits or exchange them for a cash payment equal to the value of the benefit. It serves to promote equity in commuter benefits and incentivize the use of sustainable transportation options. The first compliance option, offering a Clean Air Transportation Fringe Benefit, is a type of parking cashout.

# Compliance Option #1: Clean Air Transportation Fringe Benefit FAQs

## What is a Clean Air Transportation Fringe Benefit?

The Clean Air Transportation Fringe Benefit is a qualified IRS Fringe Benefit, of equal or greater value than the market value of the parking benefit. Employees who accept the Fringe Benefit would complete a form provided by DDOT estimating how much of the Benefit would be used for transportation costs each month. This estimate can be amended once a year.

Currently the Fringe Benefit is eligible to be used for public transportation and vanpool costs. A bicycle fringe benefit has been available in previous years but currently is not eligible. If the employee estimate of transportation costs is less than the full value of the Benefit, the difference would be covered by additional contribution to income or contribution to employee health coverage. Information on how employees who don't use public transportation or vanpool can receive the Fringe Benefit is included later in this section.

## How do we set up the Fringe Benefit?

1. The Fringe Benefit must be equal to or greater than the market value of the parking benefit. To determine the market value, take the median price of publicly available monthly parking prices within 0.25 miles of the business premises. This information can generally be found on the websites of local parking providers. If there is no information available within 0.25 miles, a distance of 0.5 miles may be used. If there is still no information available, \$175 may be used as the absolute minimum value.
2. Notify employees of the new benefit. Employees offered the parking benefit need to fill out a DDOT provided form indicating whether they would keep the parking benefit, or accept the new Fringe Benefit instead.
3. Employees who choose to receive the Fringe Benefit would then use the same form to estimate the dollar amount used for monthly transportation costs and submit this amount to the relevant parties. The amount used for transportation would be distributed through existing commuter benefits channels.
4. The difference between the transportation expenses estimate and the full value of the Fringe Benefit would then be made up with either taxable contribution to employee income or increased contribution to health coverage.
5. Once the paperwork is complete, the Fringe Benefit becomes a monthly distribution like any other commuter benefit.

### **What if an employee doesn't use the entire amount of the Benefit for transportation?**

The difference between the amount used for transportation purposes and the value of the Clean Air Transportation Fringe Benefit is made up with taxable contributions to employee income or employer contributions to health coverage premiums. Quoting from the law,

*"If the estimate provided pursuant to this section is less than the Clean-air Transportation Fringe Benefit offered to the employee pursuant to § 3307.1(a), the covered employer shall provide the employee with one of the following in an amount that, when combined with the estimate is equal to the Clean-air Transportation Fringe Benefit offered to the employee:*

- a) Additional compensation;*
- b) An increased contribution to the employee's health coverage;*
- c) A combination of (a) and (b) of this subsection."*

### **Can commuters who don't use transit or vanpool accept the Fringe Benefit?**

Commuters who intend to accept the Fringe Benefit but don't use transit or vanpool, such as bike commuters, carpoolers, or teleworkers, would fill out their estimate form saying they would use \$0 a month for transportation. They would then receive the remaining value in taxable income or employer contributions to health coverage. In future years it may be possible to use the Fringe Benefit for bicycle expenses, however that is currently ineligible for 2022.

## **Compliance Option #2: Clean Air Compliance Fee FAQs**

### **We have chosen to pay a Clean Air Compliance Fee, how do we calculate the amount due?**

To calculate the Clean Air Compliance Fee, multiply the number of employees offered the parking benefit by \$100, then by 12 to get the total cost per year.

### **Where is the fee paid, and where does the money go?**

The fee is paid yearly at the Reeves Center for Municipal Affairs. The fee goes into the District's general fund.

### **We plan to offer the Clean Air Transportation Fringe Benefit. Do we need to pay the Clean Air Compliance Fee for employees who turn down the Fringe Benefit?**

No, you do not. The Clean Air Compliance Fee is an entirely separate compliance option.

## Compliance Option #3: Create a TDM Plan FAQs

### What is a Transportation Demand Management (TDM) plan?

A TDM Plan is a document laying out specific strategies you will use to reduce the number of employees who drive to work. It also includes basic statistics about your organization such as number of employees and location, as well as the summary data from an employee commute survey.

### How would we create a TDM Plan to comply with the law?

DDOT will provide a form for creating the TDM Plan, as well as a survey template for the commuter survey. To begin, complete a commuter survey to assess how employees currently commute, interest in other commuting modes, and interest in new incentives or commuter benefits. Depending on the size of your organization the required response rate will vary. Using the data from the survey, you would then choose strategies that will reduce driving by 10% each year and complete the TDM Plan form. Once complete, submit the form to DDOT for review and approval.

If you choose to create a TDM plan and would like complimentary assistance, contact goDCgo at [info@goDCgo.com](mailto:info@goDCgo.com) or [schedule a meeting here](#).

### Where can we find examples of strategies that could be included in a TDM Plan?

goDCgo has prepared a list of example strategies that employers can build off of for creating their plans and can work with you to create your TDM Plan. Please contact [info@goDCgo.com](mailto:info@goDCgo.com) for a list of TDM strategies.

### What is the approval process for the TDM Plan?

Once DDOT receives the TDM Plan, they have a 60 day period to review the plan and either approve it or send it back for revisions. If the plan is approved, the employer then has 90 days to submit proof of its implementation. This proof may take the form of WMATA SmartBenefits registration records, email records announcing new commuter benefits, or another format.

### What happens if the TDM Plan is not approved?

If the plan is *not* approved, the employer will then have 30 days to make the required changes and resubmit. If the plan is approved, then the 90 day period to provide proof of



implementation begins. If it is not approved for a second time, the employer must implement one of the two other compliance options.

**What year or point in time is used for measuring reduction in driving?**

The measurement of reduction in driving is calculated from required commuter survey. Because of this, the date of the survey is used for the baseline. Regardless of whether your company is fully remote, if you decide to create a TDM Plan you will need to conduct a commuter survey as part of the process.

**How are “commuter trips” measured?**

The reduction in the number of employee commuter trips is based on the number of employees. One employee corresponds with one employee commuter trip.

**We are already below the 25% driving threshold. Are we compliant with the law?**

Even if you are currently below the 25% driving threshold, you would still need to complete the commuter survey and submit a TDM Plan as proof.

## Specific Workplace Scenario FAQs

**Are Pre-Tax Employee Paid Parking Benefits considered a parking benefit under the law?**

No, they are not.

**We are a university with a pre-existing Campus Plan that does not expire for several years. What are we required to do?**

If the university meets the core requirements for compliance (20 or more employees, leased parking, provide a parking benefit to employees) then once the current Campus Plan expires you would have to implement a compliance option.

**My organization has multiple office locations in the District, how would this affect our compliance strategy?**

If you chose to offer the Clean Air Transportation Fringe Benefit, the one difference is you would need to calculate a “market value of the parking benefit” for each location, assuming

they are geographically distinct and use different parking facilities. For the Clean Air Compliance Fee and TDM Plan options, the steps to compliance would remain the same.

**At my organization only a subset of employees are offered parking benefits, are we still required to comply?**

If you have over 20 employees in your organization, lease parking, and offer parking benefits, then yes you would have to comply. If you chose to offer the Clean Air Transportation Fringe Benefit, only the subset of employees offered parking benefits would be eligible to claim the Benefit and give up their parking benefit. For the other compliance options, steps to compliance would remain the same.

**Does the Act supersede or break previously existing agreements?**

No, it does not. If there is a situation where parking arrangements or pricing were part of a previously negotiated agreement, the situation would not be affected by the Act. However, if your organization is covered by the law you would need to comply.

**We are fully remote and are not sure when we will return to in person work. Are we still required to comply?**

Yes, if your organization is covered by the law you will need to choose and implement a compliance strategy by January 15, 2023.

**Is it possible to receive partial parking benefits and a partial Clean Air Transportation Fringe Benefit?**

The law prohibits covered employees from accepting a parking benefit and the Clean Air Transportation Fringe Benefit. Because of this, a hybrid model where employees have access to both options is not allowed.

**We provide matching contributions to employee paid pre-tax parking benefits. Is this a “parking benefit” under the law?**

If you have an employee paid pre-tax parking benefit and match the amount that employees contribute, that would be considered a parking benefit under the law.

**Does the law affect our existing commuter benefits?**

The law only concerns parking benefits, it does not affect other existing commuter benefits programs.

**We are using a hybrid work model and work in office part time. How would that affect compliance?**

If you meet the criteria of 20 or more employees, leased parking, and parking benefits, then you would have to comply regardless of time spent in the office.

**The law mentions that increased contribution to health coverage can be used as part of the Fringe Benefit. How would we do this?**

The answer to this question depends on the healthcare benefits package offered by the employer to employees; however, a contribution to the employees' pre-tax healthcare benefits would be in compliance with the legislation. Any increase to the employee's compensation would have to be made in compliance with section 132 of the Internal Revenue Code, approved July 18, 1984 (98 Stat. 877; 26 U.S.C. § 132).

**What constitutes an employee who is required to use their personal vehicle for regular performance of their work?**

This exemption applies to employers for whom a personal vehicle is necessary for employees to perform their job function. The question of to whom this applies will be answered on a case-by-case basis. Qualifying examples often cited by the Committee include delivery and taxi services, housekeepers, and home health aid providers. Employees offered a take-home company vehicle whose job function does not require a personal vehicle do not fall into this category.

**If your question is not answered here, please contact the goDCgo employer team at [info@goDCgo.com](mailto:info@goDCgo.com) or by [scheduling a meeting online](#).**