



Frequently Asked Questions: Transportation Benefits Equity Amendment Act of 2020

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From Our Most Recent Office Hours

What if I have over 20 employees but don’t offer free or subsidized parking?

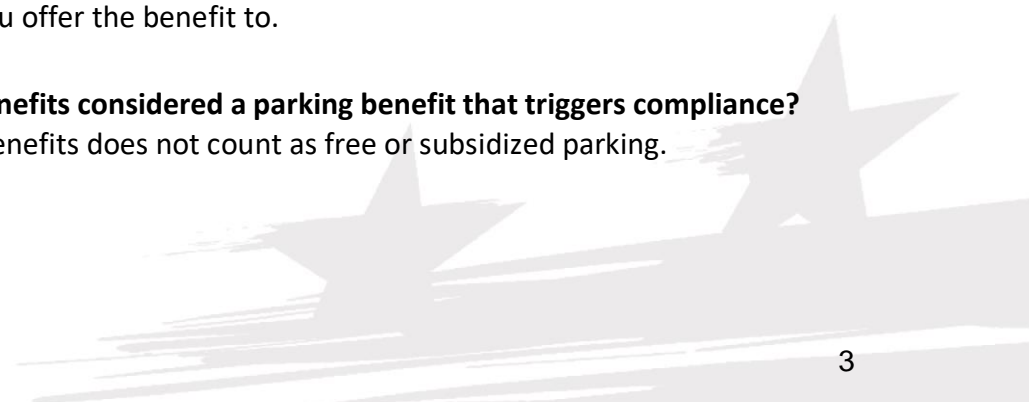
Then you will need to report that you do not offer a parking benefit to DDOT every two years starting January 15, 2023.

I have over 20 covered employees but I only offer 10 of them a parking benefit, do I have to comply?

Yes, you have to comply if you have over 20 covered employees and offer a parking benefit – it does not matter how many you offer the benefit to.

Is offering Pre-Tax Parking benefits considered a parking benefit that triggers compliance?

No, offering pre-tax parking benefits does not count as free or subsidized parking.



Is offering a subsidy through SmartBenefits to park at a Metro station considered a parking benefit that triggers compliance?

No, offering a subsidy for transit or parking at Metro stations through SmartBenefits does not count as free or subsidized parking.

If an employer offers telework to its employees on a hybrid basis, or is considering doing so, do we still need to comply with this law?

Yes. If you are in the process of restructuring benefits, the TDM plan may be a suitable compliance option.

If we already offer a transit subsidy, do we have to comply?

Offering a transit subsidy doesn't automatically make you compliant. You will need to meet all the requirements of compliance option 1, making sure the transit benefit is equal to the market value of the parking spot. If they will not use the full amount of the benefit for transportation expenses, the law states that employers must make up the difference through additional compensation, increase contribution to health coverage, or a combination of both.

Are teleworking employees considered a covered employee?

It depends. They would be considered a covered employee if they spend at least 50% of their working time in the District - this includes working from residences. They would be a covered employee if they meet either of the following.

- They telework 50% of the time or less and report to a DC office when not teleworking
- They telework more than 50% of the time and live in DC.

Employees that telework more than 50% of the time and live outside of DC (ex: Virginia or Maryland) are not covered employees.

Who is required to take the commuter survey that's needed to complete the TDM Plan compliance option?

Distribute the survey to all employees. The survey will ask questions that determine the status of an employee (covered/not covered). However, only employees that are considered "covered" will be included in the final commuter survey analysis. See the basics section for the definition of a covered employee.

If we have fewer than 20 covered employees is there anything we need to do to report/certify that?

No, you will not need to report to DDOT.

What if we have over 20 covered employees and offer a parking benefit, but entered into a parking lease prior to October 1, 2020?

Once your lease expires, you must become compliant with the law. In the meantime, you'll need to report your exemption through DDOT's reporting system.

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 covered employees will need to complete bi-annual reporting starting in January 2023.

Employers who have 20 or more covered employees and also provide a parking benefit will need to implement a compliance option prior to the compliance deadline of January 15th, 2023.

Who is exempt from compliance?

Please note those that are exempt still need to report their exemption to DDOT.

Employers who:

- Owned their own parking before October 1, 2020 and continue to own the parking
- Have 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 in 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
- Although not directly outlined in the law, not offering free or subsidized parking acts as an exemption

How do we comply with the law?

There are four different ways to comply. If you are covered by the law and are not an exempt employer, you must implement one of the following options by the reporting deadline of

January 15th, 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 choose between their existing parking benefit or and the new Fringe Benefit.
- **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.
- **Unofficial fourth option:** Stop offering a parking benefit, or switch to employee-paid pre-tax parking benefits.

How does the law define “parking benefit”?

A parking benefit is personal vehicle parking within half a mile of a business that is subsidized by an employer. 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?

Covered employers must be in compliance by the reporting deadline of January 15th, 2023. If you meet one of the exemptions, such as a parking lease signed prior to October 2020, you must still complete the reporting process and state your 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 15th, 2023. If you choose to create a TDM Plan, yearly tracking of success metrics is required.

What are the reporting requirements?

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 15th, 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 or schedule a meeting.

What is parking cashout?

Parking Cashout is a policy in which recipients of parking benefits have the option to 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. [Download Fringe Benefit Guide.](#)
2. 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. goDCgo has also created a mapping tool to assist with the process. 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.
3. [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.
4. 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.
5. 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.
6. 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.

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. View our [Clean Air Compliance Fee Guide](#) for more information on calculating the amount due.

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

The fee is paid either annually or biannually to the DC Treasurer. 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 – you only need to choose one 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.

What is Transportation Demand Management?

Transportation Demand Management (TDM) is the practice of working to ensure efficient use of existing transportation systems through better understanding user behavior, offering incentives, and implementing best practices.

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

[Download the TDM Plan Guide](#)

Start by downloading the [TDM Plan Template](#) and the [list of required questions](#) that must be included in your commuter survey. Next, decide if you would like to administer your own commuter survey in-house, or if you would prefer goDCgo to administer it for you. If conducting your own survey, be sure to include the required questions. 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 your TDM Plan. Once complete, submit your plan 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 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. In addition, the [TDM Plan Template](#) includes a page listing examples of best practices you may consider implementing. Please contact 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.

DDOT will communicate with you directly for revisions.

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. Every day an employee works would account for two commuter trips, even if they telecommute.

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. You may still offer pre-tax employee paid benefits and be in compliance with the law. However, reimbursing the pre-tax employee contribution *would* be considered a parking benefit.

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, then once the current Campus Plan expires you would have to implement a compliance option. In the meantime, you'll have to report your exemption to DDOT biannually.

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 20 or more covered employees in your organization, regardless of how you handle your parking, then yes you would have to comply or report your exemption. 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 fringe benefit and give up their parking benefit. For the other compliance options, steps to compliance would remain the same.

We already offer a subsidy for public transportation, how would this affect the Fringe Benefit?

If employees who take transit and receive a subsidy are also offered parking benefits, then they would be eligible to receive the Fringe Benefit in addition to their existing commuter benefits. In this case, they would likely estimate low commuting expenses, and receive the majority of the Fringe Benefit in taxable income or contribution to health benefits.

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. If the matching contribution is through SmartBenefits, it does not qualify as a parking benefit

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 and offer free or subsidized parking benefits, then you would have to comply regardless of time spent in the office. For employers with hybrid work schedules, TDM Plans are often a good compliance option as telework counts in your favor as a sustainable commute mode.

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 include delivery and taxi services, housekeepers, contractors/construction workers, 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. Employees who sometimes use a personal vehicle to drive to meetings during the day would not be covered under this exemption.

If I am an employer with 20 or more covered employees who decided last year not to offer free or subsidized parking to our employees, what do I need to do?

First of all, great choice and thank you for helping us meet moveDC goals. You do not need to take any additional compliance actions; however, as an employer of 20 or more covered employees you must report to DDOT biannually. In this case, since you do not offer free or subsidized parking, you would report an exemption and use documentation such as notifications that identify the change policy or if you never offered parking benefits, a certified letter from a principle or HR.

If we lease our parking, what do we need to do?

If you entered into your parking lease before October 1, 2020, you are exempt from compliance until your current lease term expires (regardless of extensions). Once it expires, you would need to comply with the law by offering a Clean Air Transportation Fringe Benefit, creating a Transportation Demand Management Plan, or paying a Clean Air Compliance Fee. In the meantime, you must report to DDOT biannually as an employer of 20 or more covered employees that you are temporarily exempt from compliance because you have a current parking lease.

Note: Now is the time to begin thinking about how you will comply when your lease is up for renewal. Contact info@godcgo.com for assistance with compliance.

I employ fewer than 20 people in the District of Columbia, what do I need to do?

All employers with fewer than 20 covered employees are not covered employers. Thus, no action or reporting is required. All employers with 20 or more covered employees in DC are covered employers and must report to DDOT biannually, regardless of how they handle their parking.

I am a covered employer who has an arrangement with a nearby garage to offer reduced rates to our staff. Am I required to comply?

Yes, you offer subsidized parking to your staff (below market-rate parking). You must choose one of the three compliance actions and submit a biannual report to DDOT.

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