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Bike Share Programs Are Not Tax-Free, Says The IRS

Along with other unpopular things the IRS has done recently, you can add treating bike share benefits as taxable. Bike share programs are primarily for short-term use in urban areas as alternatives to private vehicles, taxis or mass transit. Bikes are rented at one docking station and may be returned there or at any other docking station. The stated goals are reducing traffic congestion, noise and air pollution.



(Photo credit: Wikipedia)

In its first few weeks, Bay Area Bike Share recorded 14,591 trips across San Francisco, Redwood City, Palo Alto, Mountain View and San Jose. The total annual membership count was at 2,080, and the number of one- to three-day per-week users was 3,411. See [Bay Area Bike Share off to a fast start](#). The pilot fleet is 700 bikes, half in San Francisco, and is expected to grow to 1,000 bikes, 500 in San Francisco.

Chicago started with 700 bikes in July 2013 and now has 3,000. New York launched with 6,000 bikes. According to Janet Larsen, director of the [Earth Policy Institute](#), there are more than 18,000 sharing bikes across the country in 34 official systems. See [With San Francisco On Board, U.S. Bike Sharing Doubles](#).

And are they tax-free? Nope, not according to the IRS. The IRS was asked to approve bike share as qualifying for the Transportation (Commuting) Benefits Program under Fringe Benefit Rules for transit. I'll explain what this means, but the short answer is that the IRS says no. See [IRS Information Letter 2013-0032](#).

The IRS concluded that expenses an employee bears participating in a bike share program do not qualify for the favorable tax treatment provided for qualified transportation fringe benefits. What's this about and does it matter?

Employers that provide employees with transportation benefits can exclude their value from their employees' gross incomes if the benefits are qualified transportation fringes. Employees like this, since it's a perk and worth something but not taxed. Employers like it because they can deduct the cost but since it's not wages to employees, it puts more in employee pockets. That encourages loyal employees.

But the rules are strict, with only these items covered:

- Transportation in a commuter highway vehicle (a commuter van),
- Transit passes (for travel by mass transit (bus, rail, or ferry) or by commuter van),
- Qualified parking, and
- Qualified bicycle commuting reimbursements.

There are annual dollar limits too. In 2013, employees are able to exclude up to \$245 per month in transit benefits from income, and up to \$245 per month in parking benefits. Qualified bicycle commuting reimbursements are limited to \$20 a month for the reasonable expenses of regular travel between the employee's home and work.

The IRS says that a bike share program isn't a transit pass or a mass transit facility. Bike sharing also isn't qualified bicycle commuting reimbursement, the IRS concluded. After all, expenses incurred in using a bike share program are not expenses to purchase a bicycle, nor repair or storage costs.

That means no deal. Sure, employers can still **encourage** bike share programs. However, the IRS says it can't treat the expense the same way it does parking allowances or allowances for mass transit passes. In fact, the IRS says it would need Congress to amend the tax code to allow it.

Stay tuned, bike share.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.