

KD Employment Law Alert: New York City Employers Will Be Required To Offer Employees Pretax Transit Benefits

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Effective January 1, 2016, New York City employers with twenty (20) or more full-time employees in New York City must offer full-time employees the opportunity to use pre-tax earnings to purchase qualified transportation fringe benefits. The New York City Affordable Transit Act ("Affordable Transit Act") defines full-time employees as those who work an average of thirty (30) hours per week. Qualified transportation fringe benefits, which are defined under the IRS Code, include transit passes for transportation on mass transit to commute to or from a work location in New York City. Such benefits do not include qualified parking. Companies that are subject to the Affordable Transit Act may avoid providing such benefits if they demonstrate to the Department of Consumer Affairs ("DCA") that offering qualified transportation fringe benefits causes financial hardship.

Employers who violate the Affordable Transit Act may be subject to civil penalties of \$100-\$250 for a first violation, and \$250 for each subsequent violation. Employers will have ninety (90) days to cure a first violation before any penalty is imposed. Furthermore, due to a six-month grace period, penalties will not be imposed until July 1, 2016.

The DCA is in the process of providing guidance to employees concerning the Affordable Transit Act. This guidance is anticipated to include a form employers may use to document compliance with the Affordable Transit Act.