

Prepared by the Office of Human Resources.
This is a new Administrative Procedure.

May 2001

SAFETY WELFARE AND BENEFITS

A9.761 Pre-Tax Qualified Parking Benefit Plan

1. Purpose

To implement a pre-tax qualified parking benefit plan within the meaning of Internal Revenue Code, Section 132(f), for the exclusive benefit of eligible employees of the University of Hawai'i.

2. Objective

To prescribe the guidelines for implementation of the plan and the guidelines are intended to comply with the requirements of the Code. If there are any conflicts between the Code and these guidelines, the Code shall prevail.

3. References

- a. Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.
- b. Internal Revenue Code, Section 132(f), as amended by the Transportation Equity Act for the 21st Century (TEA 21), Title IX, Section 910.
- c. Internal Revenue Service 26 CFR Parts 1 and 602.
- d. Title 20, Chapter 12 Parking and Operations of Motor Vehicles

4. Definitions

- a. As used in these guidelines, unless a different meaning clearly appears in the context:
 - 1) Code means the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

- 2) Director means the System Director of Human Resources.
- 3) Eligible employee means an employee who is employed by the University of Hawai'i, qualifies to park in an area under the jurisdiction of the University of Hawai'i, and is assessed a semi-monthly parking fee via payroll deduction in accordance with University parking policies and procedures.
- 4) Plan means the qualified parking benefit authorized under Section 132(f) of the Code and established under these guidelines.
- 5) Qualified parking includes parking in an area under the jurisdiction of the University of Hawai'i, pursuant to IRS 26 CFR Parts 1 and 602.
- 6) Semi-monthly means pay period.

5. Applicability/Responsibility

- a. This procedure applies, as appropriate, to all Board of Regents (BOR) and Civil Service employees of the University of Hawai'i.
- b. The System Director of Human Resources (Director) is the administrator of this benefit plan.
- c. The Director may delegate any responsibilities to representatives of any field units for the day-to-day administration of the plan and may retain consultants or advisors as needed.
- d. The respective campus administrators are responsible for their parking policies and procedures.
- e. The plan shall be administered by the Director and the Director's representatives in a nondiscriminatory manner and in accordance with the Code, applicable state laws, and University rules, policies and procedures.

6. Guidelines

a. Pre-Tax Parking Benefit Eligibility

- 1) An eligible employee, who is provided qualified parking and assessed a semi-monthly parking fee in accordance with University parking policies and procedures, shall automatically have the parking fee deducted from the eligible employee's paycheck on a pre-tax basis. The pre-tax deduction shall be equal to the amount specified by University parking policies and procedures and shall not exceed the maximum specified in the Code.
- 2) An eligible employee who does not wish to participate in the plan shall be required to file an application form which affirmatively states that the eligible employee does not wish to participate in the plan and requests that the semi-monthly parking fee be deducted on a post-tax basis. The application form shall be filed with and received by the respective campus parking office at least twenty days prior to the beginning of the pay period to which the application applies and in accordance with applicable University parking policies and procedures.
- 3) An eligible employee who wishes to re-enroll in the plan shall file the appropriate forms with the respective campus parking office at least twenty days prior to the beginning of the pay period to which the application applies and in accordance with applicable University parking policies and procedures.
- 4) The plan shall be effective August 16, 2001.
- 5) Participation in the plan shall commence when the eligible employee obtains qualified parking and shall continue as long as the employee continues to be an eligible employee, or until the employee files an application form to deduct

the parking fee on a post-tax basis under subsection 6.a.2).

b. Cancellation of the Pre-Tax Parking Benefit

- 1) An eligible employee may cancel the pre-tax parking benefit by filing the appropriate forms with the respective campus parking office at least twenty days prior to the cancellation date and in accordance with applicable University parking policies and procedures.
- 2) Any eligible employee who retains the employee's parking assignment while on leave of absence without pay by paying the parking fee on a post-tax basis shall automatically continue participation in the pre-tax parking benefit upon return to paid status.

3) An administrative cancellation of the pre-tax parking benefit may be made if:

- a) An employee is no longer eligible for the pre-tax parking benefit if the employee:

! commits a violation of the University's rules, policies, and procedures relating to parking and operation of motor vehicles,

! terminates employment with the University, or

! dies,

in which case the cancellation shall become effective as of the same date on which the parking assignment is canceled.

- b) An eligible employee does not have sufficient salary from which to deduct the parking fee, provided that the administrative cancellation shall be effective retroactively to the beginning of the pay period in which the employee failed

to make the contribution.

c. Forfeitures of the Pre-Tax Parking Benefit

- 1) Amounts forfeited in accordance with the Code shall not be refunded to an employee.

d. Maximum Limits of the Pre-Tax Benefit Plan

- 1) The salary reduction amount of the qualified parking benefit that an eligible employee may exclude from the eligible employee's gross income shall not exceed the maximum provided by the Code.

e. Amendment or Termination of the Plan

- 1) The Director may amend or terminate the plan, in whole or in part, for any reason, and at any time without the consent of any employee or other person.
- 2) The Director may amend or modify the plan retroactively to enable the plan to provide qualified parking benefits under the Code.

f. General Provisions of the Plan

1) Appeals

- a) Except as otherwise provided by law, an employee may appeal any decision regarding the plan by submitting a written statement to the Director within thirty days after receiving the decision, which lists all of the reasons upon which the request for review is based and all facts in support thereof.
- b) The Director shall issue a written response or decision within sixty days after receiving the appeal.
- c) Except as otherwise provided by law, the Director's response or decision shall be

final and conclusive.

2) Effect of the plan on employment

- a) The plan shall not be deemed to constitute a contract of employment between the University and any participant, nor be a consideration or an inducement for the employment of any participant or eligible employee.
- b) Nothing contained in this plan shall be deemed to give any participant or eligible employee the right to be retained in the service of the University or to interfere with the right of the University to terminate any participant or eligible employee at any time regardless of the effect the termination will have upon the eligible employee as a participant of this plan.

3) Tax Consequences

- a) Neither the University nor the Director makes any warranty or other representation as to whether or not any benefits received by an eligible employee participating under the plan shall be treated as includible in gross income for federal and state income tax purposes.

4) Transfer of Benefits

- a) Except as otherwise provided in the guidelines, benefits under the plan shall not be voluntarily or involuntarily transferred, assigned, or alienated.

5) Computation of Time

- a) Except as otherwise provided in these guidelines, whenever a period of time is stated in terms of days, the period shall mean calendar days.

6) Liability of the University

- a) The University, including its employees, shall not be liable for any losses, taxes, or penalties due to errors or omissions in administration of the plan unless the losses, taxes, or penalties are due to the gross negligence or willful misconduct of the University.

7) Severability

- a) If any provision of these guidelines or the plan is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions of these guidelines or the plan, and these guidelines and the plan shall be construed and enforced as if such provision had not been included.

8) Applicable Law

- a) The plan shall be construed and enforced according to the Code and the laws of the State to the extent not preempted by federal law.