

Statement to the House Committee on Ways & Means of WageWorks
April 8, 2014

The following statement is being submitted by WageWorks, the nation's largest provider of commuter benefits services to employers. WageWorks strongly supports the continuation of the employer provided mass transit benefit and, in particular, supports H.R. 2288, introduced by Rep. Michael Grimm (R-NY) and co-sponsored by Rep. Peter King (R-NY) and 66 other Members of the House. The bill titled, The Commuter Parity Act of 2013, would achieve permanent parity between the tax treatment provided for parking and commuter benefits and would do so on a revenue neutral basis.

WageWorks applauds the efforts of the Members of the House Ways & Means Committee and its Chairman, Dave Camp, to achieve a simpler, fairer and more focused tax code. This goal is both laudable and achievable. Federal tax and transportation policy has long recognized the unique role of the Federal government in encouraging commerce and the transport of Americans by car or mass transit to their place of employment. This policy is reflected in our support for the development of the surface transportation infrastructure; mass transit and in the favorable tax treatment for both mass transit and parking.

Prior to the early 1980s free or reduced parking was considered a non-taxable fringe benefit generally provided by employers for their convenience and in their interest in accommodating their employees. In the early 80s Congress began to define fringe benefits and to place limits on the amount of benefit that could be provided through non-taxable fringe benefits. The original limits on the amount of tax-free parking benefits that could be provided have their origin in this effort. Congress clearly recognized that not all individuals commute to work by car, and thus park at \$220 per month, and that federal policy should be neutral between commuting via mass transit or automobile. In 1986, Congress enacted the first commuter tax benefit for mass transit at \$15 per month and has sought over the years to try and equalize the treatment between the different modes of transportation. In 1992, parking (which was unlimited under the tax code) was initially capped at \$155 per month.

These commuting benefits are consistent with tax reform principles. They do not add any complexity to the code since they are exclusions from income and are easily accounted for in the payroll system of employers. Many companies turn to firms such as WageWorks to administer these programs at low cost to the employer. These programs are broad based, middle class benefits that are directly tied to the facilitation of employment. They pose no substantial drain on the Treasury and the mass transit benefit is likely a net saver to the government as it reduces the need for costly expansion of roads. By encouraging use of mass transit, commuter benefits also reduce the need for government to provide direct financial support to public transit operators.

The Ways & Means Committee discussion draft would make unwise changes in the mass transit benefit, ending parity between the parking benefit and the excludable mass transit amount. Individuals may debate the relative merits of one form of transportation over another but it is clear that, at a minimum, mass transit provides a clear benefit to employers and to the community as a whole especially in congested urban areas. Both public policy and the tax code should not penalize commuters for use of public transit versus driving (and thus parking) to commute to work.

The tax reform proposal would also no longer adjust such amounts for inflation effectively reducing these benefits on an annual basis. In an era of continued wage stagnation and increased urbanization, both parity and inflation adjustments remain sound policy and should not just be continued, but made permanent. For the millions of working Americans who continue to rely on mass transit, Congress' failure to extend these important tax policies constitutes an increase in taxes.

In addition, the tax reform proposal denies the current employer deduction for pre-tax commuter benefits. This contradicts the basic principle of ordinary and necessary business expenses which are generally held to be deductible by the employer. These are not meant to be in lieu of compensation nor are they viewed as a form of compensation by the employee but rather a recognition of the value to the employer of facilitating access to the place of employment.

We believe that the components of the commuting benefit should continue at parity and that provisions are made to assure that their value remains constant over time.

H.R. 2288 would achieve permanent parity between the tax treatment provided for parking and mass transit on a revenue neutral basis. We hope the House Ways & Means Committee will consider this in its deliberations.

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