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Benefits Alert

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DC employers must report compliance with or exemption from the DC Parking Cashout Law by January 15

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DC Parking Cashout Law: What you need to know.



What's the Impact

- / DC employers must comply with the DC Parking Cashout Law by January 15.
- / Unless exempt, covered employers that offer a parking benefit must provide a Clean-air Transportation Fringe Benefit, develop a transportation demand management plan, pay a fee, or discontinue the parking benefit.
- / All covered employers must submit a compliance report to the DDOT every two years or be subject to fines and penalties.

In 2020, the District of Columbia quietly enacted The Transportation Benefits Equity Amendment Act of 2020 (commonly referred to as the "DC Parking Cashout Law") that requires most District of Columbia employers providing a parking benefit to their employees to either (i) offer a Clean-air Transportation Fringe Benefit, (ii) develop a transportation demand management plan, (iii) pay a Clean Air Compliance fee, or (iv) discontinue the parking benefit. In early 2022, the District Department of Transportation (DDOT) published regulations to implement the Act and mandated that **all covered District of Columbia employers must report compliance with or**

exemption from the DC Parking Cashout Law by January 15, 2023, or be subject to fines and penalties.

We provide an overview of the DC Parking Cashout Law, highlight the reporting requirement, and note key action items below.

Overview of the DC Parking Cashout Law

As a preliminary matter, the DC Parking Cashout Law applies to “covered employers.” A “covered employer” is generally a District of Columbia employer with 20 or more full-time and part-time employees. Excluded from the employee count are employees required to use their personal vehicle for regular performance of work, those who perform at least 50% of their working time in the District of Columbia, and those whose employment is based in the District of Columbia and that perform a substantial amount of their work in the District of Columbia and less than 50% in any other state.

If a covered employer who is not otherwise exempt (see below) offers free or subsidized parking to employees, the covered employer has four options:

- / **Option 1:** Offer employees a Clean-air Transportation Fringe Benefit based on the monthly market value of the parking benefit—the regulations provide specific methods to calculate the monthly market value. *This is generally the most expensive option.*
- / **Option 2:** Implement a transportation demand management plan that meets prescribed standards, DDOT approval, and reporting requirements. *This is generally the most labor- and time-intensive option.*
- / **Option 3:** Pay DDOT a Clean Air Compliance fee of \$100 per month per employee that is offered a parking benefit.
- / **Option 4:** Discontinue free or subsidized parking.

An employer can also “mix and match” options if the result complies with the regulations.

A covered employer who offers free or subsidized parking to employees may be exempt if, before October 1, 2020, the covered employer:

- / Owned (and continues to own) the parking spot used by an employee.
- / Leased (and continues to lease) the parking spot used by an employee.
- / Is party to a transportation demand management plan reviewed by DDOT (exceptions apply) (typically applies to hospitals and universities).

Once a covered employer is no longer exempt (e.g., at the end of the initial parking lease term), the employer must comply with the regulations and choose one of the parking benefit options listed above.

IMPORTANT: All covered employers (i.e., employer with 20 or more employees) will need to comply with the reporting requirement regardless of whether they are exempt or do not offer a parking benefit.

Reporting Requirement

Each covered employer must submit a report to the DDOT via a reporting dashboard by January 15, 2023, and every two years thereafter. The report will include information related to the compliance option the employer has elected to implement (e.g., number of employees offered a Clean-air Transportation Fringe Benefit) and whether the employer is subject to any exemptions.

Action Items

Employers should consider the following action items:

- / Review employee count, parking policy, and relevant documentation to determine whether an exemption exists (e.g., parking lease).
- / By January 15, 2023:
 - All District of Columbia employers with 20 or more employees must report compliance with or exemption from the DC Parking Cashout Law to the DDOT.
 - Nonexempt covered employers must offer a Clean-air Transportation Fringe Benefit, develop a transportation demand management plan, pay a Clean Air Compliance fee, or discontinue the parking benefit, and report details of the selected option to the DDOT.

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