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CONFIDENTIAL ATTORNEY CLIENT PRIVILEGED MEMORANDUM

DATE: September 9, 2015

TO: Hotel Association of New York City, Inc.
Labor Relations Members
General Managers, Human Resources Directors and Controllers

FROM: Kane Kessler, P.C.
Labor and Employment Law Department

RE: Pre-Tax Transportation Fringe Benefits

Pursuant to Section 20-926 of the New York City Administrative Code, effective January 1, 2016, employers who employ 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, other than qualified parking, in accordance with federal law.¹ An employee is considered full-time if he/she works an average of 30 or more hours per week.

This requirement does not apply to employees covered by a collective bargaining agreement. However, where an employer is signatory to a collective bargaining agreement, the transportation fringe benefits must still be offered to employees not covered by the collective bargaining agreement, assuming there are at least twenty (20) such full-time employees.

This requirement may also be waived if an employer can demonstrate that compliance would be a financial hardship.

Failure to offer the transportation fringe benefits subjects an employer to penalties not exceeding \$250 per violation after July 1, 2016.

¹ Qualified Transportation Fringe (“QTF”) benefits are defined in Internal Revenue Code Section 132(f) and include Commuter transportation in a commuter highway vehicle, transit passes, qualified parking and qualified bicycle commuting expenses. See IRC Section 132(f) for details.

If you have any questions, please do not hesitate to contact David R. Rothfeld, Judith A. Stoll, Lois M. Traub, Alexander Soric, Robert L. Sacks, Michael C. Lydakis, or Jaclyn K. Ruocco.

cc: Joseph E. Spinnato, Esq.
Vijay Dandapani, Chairman