



Employee Benefit Strategies from the SECURE Act, CARES Act and more

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Presentation goal



PROVIDE AN UPDATE ON COVID-19 LEGISLATION AND RELATED GUIDANCE



PROVIDE GUIDANCE ON PAID LEAVE THAT APPLIES IN MAINE IN 2021

CARES Act: Retirement plan provisions

What retirement plan changes are in the CARES Act:

- Required Minimum Distribution (RMD) waiver for 2020
- For those participants impacted by COVID-19
 - Up to \$100,000 distribution related to COVID-19
 - 10% early withdrawal penalty waiver
 - Pay taxes ratably over three-years
 - Can repay distribution within three years
 - Participant Loan Changes
 - Maximum loan limit increased to **\$100,000/100% of account balance** between March 27th and September 23rd
 - Due date for repayments can be delayed for one year
- Plan amendment not required until December 31, 2022 (for calendar year plans)

CARES Act: Student-loan relief

Does your organization offer student loan repayment benefits?

- CARES Act permits the following tax free benefits:
 - Up to \$5,250 to be tax-free in **2020 only**
- Other employer tax-free benefits – Sec 127 Educational Assistance
 - Exclude up to \$5,250 per employee annually
 - Must have a written plan
 - Graduate or undergraduate courses
 - Not required to be job-related



Polling question

Payroll tax deposit deferral

WHAT IS IT?



**EMPLOYER'S PORTION OF SOCIAL SECURITY TAX (6.2%)
DEFERRED FROM 3/27/20 – 12/31/20**



PAYMENTS DUE: 50% 12/31/21 AND 50% 12/31/22

Employee retention tax credit

WHAT IS IT?



CREDIT AGAINST APPLICABLE EMPLOYMENT TAXES FOR EACH CALENDAR QUARTER



EQUAL TO 50% OF QUALIFIED WAGES PER EMPLOYEE (MAXIMUM CREDIT OF \$5,000 PER EMPLOYEE)



QUALIFIED WAGES:

- Less than 100 employees: all wages paid during shutdown and during depressed quarters
- Greater than 100 employees: wages paid to an employee who is not providing services due to the suspension of the business or a drop in gross receipts

Employee retention tax credit

WHO IS ELIGIBLE?



ORGANIZATIONS THAT:

- Didn't participate in the Paycheck Protection Program,
- Were fully or partially suspended from an appropriate governmental, authority due to COVID-19, or
- Had a significant decline in gross receipts



WHICH ORGANIZATIONS MAY STILL BENEFIT FROM THE ERC?

- Gross receipts have not surpassed 80% in a calendar quarter
- Any newly hired employee

Families First Coronavirus Response Act (FFRCA)

Paid Sick and Family Leave Credits: The basics

- Employers with fewer than 500 employees
- Effective for leave paid on or after April 1, 2020
- Tax credit for amounts paid, up to certain limits
- Sick Leave – up to 80 hours paid at regular rate
 - Up to \$511 per day; or
 - 2/3 of the regular rate, up to \$200 per day
- Family Leave – up to 10 weeks paid at 2/3 regular rate, up to \$200 per day
- Exception: health care providers and emergency responders
- Expires December 31, 2020

Families First Coronavirus Response Act (FFRCA)

Paid Sick and Family Leave Credits: The basics

Allowable Reasons for Paid Sick and Family Leave:

- I. Subject to a Federal, State, or local quarantine or isolation order;
- II. Advised by a health care provider to self-quarantine;
- III. Experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- IV. Caring for an individual who is subject to an order described in I or II above;
- V. Caring for a child of such employee if the school or place of care of the child has been closed, or the child care provider of such child is unavailable due to COVID-19 precautions;
or
- VI. Is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Families First Coronavirus Response Act (FFRCA)

Paid Sick and Family Leave Credits: The latest

New York Attorney General challenged the guidance

- There does not have to be work available for an employee
- Definition of “health care provider”
- Employer consent for intermittent leave
- Requirement for documentation prior to leave

New FAQs issued to address current issues faced by families

- Completely remote learning
- Hybrid schedules
- Choice of in-person or remote learning



Polling question

Maine Earned Leave Act

- 1** FIRST IN THE COUNTRY
- 2** SIGNED ON MAY 28, 2019
- 3** EFFECTIVE JANUARY 1, 2021
- 4** REGULATIONS ISSUED
- 5** \$1,000 PENALTY (PER OCCURRENCE) FOR FAILURE TO COMPLY
- 6** TIME TO PREPARE

Maine Earned Leave Act



COVERED EMPLOYER

- Employs more than 10 employees for more than 120 days



COVERED EMPLOYEES

- Generally ALL
 - Exemptions for seasonal and collectively bargained

Maine Earned Leave Act

How much leave is “required”?

- Accrue at least one (1) hour for every 40 hours worked
- Accrue up to 40 hours in one year of employment
- Accrual begins at start of employment
- Can require employment for 120 days before taking leave

Maine Earned Leave Act

How much leave is “required”? (continued)

Answered questions:

- Can unused leave carry over from one year to the next?
- Forfeit unused leave upon termination?
- Can an employer “front-load” earned time?
- Must an employee’s anniversary year be used to track?
- Impact on existing paid time off (PTO) policies?
- How to calculate accrual for salaried employees?

Maine Earned Leave Act

What guidelines apply to an employee?

- May use leave for any reason
- Must give “reasonable” notice
 - Absent an emergency, illness, or other sudden necessity
- Paid at the same base rate of pay

Maine Earned Leave Act

What guidelines apply to an employee? (continued)

Answered questions:

- Limit number of hours that may be used at one time?
- What is meant by “base rate of pay”?
- What documentation must be submitted by employee?
- Must employee follow normal procedures?
- Discipline employee for misusing paid leave?

Massachusetts Paid Family and Medical Leave Act

How does the Massachusetts law differ from Maine's law?

- Contributions effective October 1, 2019
- Requires contributions by Employer and Employees
 - Up to 0.75% of compensation
 - Family Leave: Employees can pay 100% of contribution (0.13%)
 - Medical Leave (0.62%): Employees can pay 40% of the standard rate, special rule for employers with less than 25 employees
- Quarterly tax filings to transmit contributions

Massachusetts Paid Family and Medical Leave Act

How does the Massachusetts law differ from Maine's law? (cont'd)

- Covers paid family leave and paid medical leave separately
- Benefit payments begin January 1, 2021
- Duration of leave:
 - Family leave: up to 12 weeks
 - Medical leave: up to 20 weeks
 - Combined leave: up to 26 weeks

Massachusetts Paid Family and Medical Leave Act

How does the Massachusetts law differ from Maine's law? (cont'd)

- Amount of Family and Medical Leave Benefits
 - 80% of salary up to 50% of state average weekly wage, plus
 - 50% of salary exceeding 50% of state average weekly wage
 - Up to maximum of \$850 per week (indexed annually)
- Private Plan exemptions



Polling question

Employee Payroll Tax Deferral

What do you need to know about the deferral?

- Initiated by the employer
- Deferral applies only to the employee portion of the Social Security Tax
- Deferral occurs between September 1 – December 31, 2020
- Applies on a pay-period by pay-period basis on wages less than \$4,000 bi-weekly
- Amounts deferred must be repaid between January 1 – April 30, 2021
- Amounts deferred are reported on quarterly Form 941

Payroll systems must be updated before an employer can reasonably initiate the deferral.

Employee Payroll Tax Deferral

Unanswered questions about the deferral?

- If an employer initiates the deferral provisions, can an employee elect out?
 - If so, how does an employee elect out?
- What happens when an employee terminates during the period of deferral or period of repayment?
- What happens if an employer did not initiate the deferral and Congress later approves forgiveness of the amounts deferred?

What is a Medical Loss Ratio (MLR) or COVID-19 rebate?



APPLIES TO FULLY INSURED PLAN



BASED ON INSURER'S MLR – NOT PLAN SPECIFIC



GENERALLY ISSUED BY SEPTEMBER OF THE FOLLOWING YEAR

NOTE:

COVID-19 REBATES APPEAR TO BE AN ADVANCE OF THE 2020 MLR

What should an employer do if it receives an MLR Rebate?



GENERALLY HAVE 90 DAYS TO USE THE REBATE



MUST DETERMINE WHO PAID THE PREMIUMS:

- Employer
- Employees
- Both (if both, Employees must receive their proportionate share of the rebate)



REALLY TWO OPTIONS FOR EMPLOYEE'S PORTION OF THE REBATE

- Cash bonus
- Reduce future employee participant premium payments

WHAT RULES APPLY TO COVID-19 REBATES?

Contact us



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