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Massachusetts Paid Family and Medical Leave Act — updates

By Christopher Higgins and Jeffrey Gilbreth

Over the past several weeks, we have issued a number of alerts regarding key developments with respect to the Massachusetts Paid Family and Medical Leave Act (“PFML”). You can find those prior alerts [here](#), [here](#) and [here](#).

Since our last alert, there have been a few important developments, so we are writing again to share some information about those developments. As always, we are happy to answer any questions you may have about PFML.

As we previously reported [in this alert](#), Massachusetts Legislative leaders agreed on June 14 to delay the payroll tax and notice requirements three months. Since that delay, the Department of Family and Medical Leave (“DFML”) has released new information and guidance regarding PFML. Here are the key takeaways:

Notice to workers

New notice forms

The DFML released new notice forms, including: one notice form for employers with fewer than 25 Massachusetts employees and another notice form for employers with 25 or more Massachusetts employees. Copies of these new notices can be found [here](#).

The DFML also released an updated notice for organizations that qualify as a “covered business entity” to send to 1099-MISC independent contractors. Notably, the DFML has clarified that only organizations that qualify as “covered business entities” are required to notify their independent contractors. Previously, it appeared that all organizations needed to provide notice to their Massachusetts 1099-MISC contractors.

Posters

The DFML has also updated the workplace poster that employers must hang in their MA locations. Please note that, unlike the deadline to issue notice to Massachusetts workers (which has been extended to September 30, 2019), the DFML has **not** extended the June 30 deadline to hang the workplace posters. So, employers should hang the new PFML poster immediately.

Employers who provided notice to workers before the payroll tax delay

Many employers provided the required notices to their employees prior to the announcement on June 14 that the payroll tax would be delayed until October (and the subsequent announcement that the tax rate will be increasing, as discussed below). To address this issue, the DFML released an updated rate sheet, which those employers who already provided notice are required to send to their workforce. Such employers do not need to obtain new signatures from employees on this rate sheet. Instead, they simply have to track that they sent the rate sheet. For employers who did not send notice prior to June 14, the updated notices discussed above should be used. These updated notices must be sent by September 30, 2019, and the requirements that the employer must obtain signatures from the MA workers who receive the notice are still in effect.

Payroll tax

Along with delaying the start of the payroll tax contribution from July 1, 2019, until October 1, 2019, the DFML announced that the payroll tax would be increased from 0.63% to 0.75% effective October 1, 2019. With this change, the split will now be 0.62% allocated for medical leave and 0.13% for family leave. The cost-sharing percentages between employers and employees have not changed. Employers should ensure their budgets are updated based on these new amounts and should prepare employees for the increased payroll tax. With this delay, the first payment will not be due until January 31, 2020, via MassTaxConnect.

Next steps

- Ensure the updated workplace poster is hung in your Massachusetts workplaces
- If you sent notices to your employees prior to June 14, 2019, ensure the updated rate sheet is sent and that you are tracking that it has been sent
- If you have not yet sent notices, send the updated notice based on your workplace size prior to September 30, 2019, and ensure signatures are collected
- If you are a covered business entity under the law, ensure your Massachusetts 1099-MISC independent contractors receive a notice; they are required to sign the notice by September 30, 2019
- Prepare your payroll based on the updated tax percentage, and ensure that payroll taxes are ready to be remitted starting October 1, 2019

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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