EYE ON WASHINGTON

Timely, topical insights on a variety of payroll and reporting issues.

Detailed Look at State, Local and Federal Updates

Topics covered in this issue:

State/Territory/District

California Releases Updated Wage Theft Notice for 2024

The California Department of Industrial Relations has released an **updated model wage theft notice** to reflect changes that take effect **January 1, 2024**.

The Details:

Background:

At the time of hiring, an employer must provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing certain information about the employer, wages, workers' compensation and paid sick leave.

Beginning January 1, 2024, the notice must also include information on the existence of a federal or state emergency or disaster declaration applicable to the county or counties where the employee is to be employed, and that was issued within 30 days before the employee's first day of employment, that may affect their health and safety during their employment.

An employer must notify their employees in writing of any changes to the information set forth in the notice within seven calendar days after the time of the changes, unless one of the following applies:

- All changes are reflected on a timely wage statement.
- Notice of all changes is provided in another writing required by law within seven days of the changes.

Updated Model Notice:

The California Department of Industrial Relations has released an **updated model notice** that addresses the requirement to include information of an emergency or disaster declaration beginning January 1, 2024. The updated notice also includes changes to the state's paid sick leave law that took effect January 1, 2024. Employers have seven days from the effective date to notify employees of the paid sick leave changes and provide updated wage theft notices to new hires.

Note: The state has updated the English version of the notice. Employers should watch for **updated notices in other languages**.

Next Steps:

California employers should prepare to provide the updated wage theft notice to existing employees and new hires in 2024.

Note: Beginning March 15, 2024, if an employee is admitted under the federal H-2A agricultural visa program, the employer must include additional information in a separate and distinct section of the notice, in Spanish, and, if requested by the employee, in English, describing an agricultural employee's additional rights and protection under California law. Employers that employ both H-2A and non-H-2A employees have the option of providing the notice to non-H-2A employees in English or Spanish, at the employee's request, or in the language that the employer normally uses to communicate employment-related information to non-H-2A employees.

The Labor Commissioner is required to create a template for the notice that complies with these requirements and post the template on its **internet website** by March 1, 2024.

California Provides Guidance on Expanded Sick Leave Law

The California Department of Industrial Relations has updated guidance to address the expansion of the state's paid sick leave law that takes effect **January 1, 2024**.

The Details:

Background:

Effective January 1, 2024, changes to the state's paid sick leave law include, but aren't limited to:

- Employees have the right to use up to **five days or 40 hours** of paid sick leave per year (up from three days or 24 hours).
- While employers are generally required to carryover accrued, unused leave to the following year, no carryover is required if the full amount of leave is received at the beginning of each year (also known as the "up-front method" or "frontloading"). "Full amount of leave" for these purposes is defined as five days or 40 hours (up from three days or 24 hours).
- An employer is under no obligation to allow an employee's total accrual of paid sick leave to exceed **10 days or 80 hours** (up from six days or 48 hours), provided that an employee's rights to accrue and use paid sick leave are not otherwise limited.
- **Certain provisions will preempt any local ordinance to the contrary**.

Updated Guidance:

The California Department of Industrial Relations has updated its answers to **frequently asked questions** about the state's paid sick leave to address the changes for 2024. Here are some examples:

Q: What does five days or 40 hours mean?

A: Starting on January 1, 2024, an employer must allow an employee to use at least five days or 40 hours, whichever is more (refer to **DLSE Opinion Letter** 2015.08.07).

Therefore, for example, if an employee works 10-hour days, the employee will be entitled to use at a minimum 50 hours of paid sick leave.

Alternatively, if an employee works only six hours a day and takes five days of paid sick leave, for a total of 30 hours, the employee will still have 10 hours remaining.

These examples assume the employee has earned or received upfront their full amount of leave.

Q: What if a local ordinance requires an employer to provide more paid sick leave than state law?

A: The employer must provide the paid sick leave required by the local ordinance if it is more than the requirements of state law.

In general, if employees are subject to local sick leave ordinances, the employer must comply with both the local and California laws, which may differ in some respects. The employer must provide the provision or benefit that is most generous to the employee.

The only exception to this general rule is that as of January 1, 2024, local ordinances cannot contradict the state paid sick leave law requirements regarding the lending of paid sick leave, paystub statements, calculation of paid sick leave, providing notice if the leave is foreseeable, timing of payment of paid sick leave, and whether payment of sick leave is required upon termination. If a local ordinance contradicts the state law on these specific topics, the state law prevails over (preempts) the local law.

Q: What options do employers have to provide paid sick leave?

A: Employers may choose to have an "*accrual*" policy or an "*up-front*" policy.

Q: What is an accrual policy?

A: An *accrual* policy is one where employees earn sick leave over time, with the accrued time carrying over in each year of employment. In general terms (and subject to some exceptions), employees under an accrual plan must earn at least one hour of paid sick leave for each 30 hours of work (the 1:30 schedule). Although employers may adopt or keep other types of accrual schedules, the schedule must result in an employee having at least 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment and 40 hours by the 200th calendar day of employment.

Although employees may accrue more than five days of paid sick leave under the one hour for every 30 hours worked accrual method (or under an alternative accrual standard), the law allows employers to limit an employee's **use** of paid sick leave to 40 hours or five days during a year. The law also allows an employer to limit an employee's total accrued paid sick leave to no more than 80 hours or ten days. Prior to January 1, 2024, an employer could limit an employee's use to 24 hours or three days during a year and an employee's accrual to no more than 48 hours or six days.

Q: What is an up-front policy for providing paid sick leave?

A: An *up-front* policy makes the full amount of sick leave for the year available immediately at the beginning of a year-long period, except for initial hires where it must be available for use by the 120th day of employment. The employer must provide at least 40 hours or five days of paid sick leave per year and the full amount of this leave must be available for the employee's use from the beginning of each year of employment, calendar year or 12-month period.

Q: If an employer uses an accrual method and capped an employee's yearly use of leave at three days or 24 hours, what must an employer do to comply with the law on January 1, 2024?

A: If an employer uses an annual start date other than January 1 and implements a 12-month use cap, that cap must change to 40 hours or five days on January 1, 2024. For example, if an employer uses the 12-month period of May 1 - April 30 and implements a cap, and an employee used 24 hours or three days before January 1, 2024, the employer must allow the employee to use an additional two days or 16 hours before April 30, if the employee has accrued that additional leave.

Q: If an employer utilized the "up-front" method prior to January 1, 2024 and provided an employee with three days or 24 hours of leave on the employee's anniversary date during the year, what must an employer do to comply with the law on January 1, 2024?

A: The employer has the choice to frontload the two additional days on January 1, 2024 or move the measurement of the yearly period to January 1, 2024 and frontload five days. For example, if an employee started on May 1, 2021, and the employer used that anniversary date to frontload three days or 24 hours on May 1, 2023, the employer may either provide two days or 16 hours on January 1, 2024, and keep the May 1 date to frontload, or can "reset" the frontload date to January 1, 2024 and provide the employee five days or 40 hours then.

Next Steps:

- Read the **updated guidance in full**.
- Comply with the changes to the state's paid sick leave by January 1, 2024.
- Post an **updated paid sick leave notice**.
- As required by the state's wage theft notice requirements, **notify employees of the paid sick leave changes within seven days of January 1st and provide updated wage theft notices to new hires**

California Requires Reproductive Loss Leave

California has enacted legislation that requires employers with 5 or more employees to provide time off to employees who experience a covered reproductive loss event. The requirement takes effect **January 1, 2024**, and is separate and distinct from the state's bereavement leave and other leave requirements.

The Details:

General Requirements:

Under the law, covered employers must grant a request by any covered employee to take up to five days of reproductive loss leave following a covered reproductive loss event.

With one limited exception, the leave must be taken within three months of the event. However, if the employee is on or chooses to go on a different type of leave to which they are entitled under state or federal law, the reproductive loss leave must be completed within three months of the end of that other leave. Employees are entitled to use the leave on consecutive or non-consecutive days.

If an employee experiences more reproductive loss events within the 12-month period, they are entitled to additional allotments of leave for each instance. However, an employer is only required to grant an employee up to 20 days of such leave within a 12-month period.

Covered Employees:

To be eligible for such leave, an employee must be employed by the employer for at least 30 days prior to the start of the leave.

Covered Events:

The leave may be taken after a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction, provided the employee would have been a parent if the covered event were successful. See the **text of the law** for definitions of these events.

Pay During Leave:

The leave must be taken pursuant to any existing applicable leave policy of the employer. If there is no existing applicable leave policy, reproductive loss leave may be unpaid, except that an employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee.

Documentation:

Nothing in the law requires employees to provide documentation to be entitled to such leave.

Retaliation Prohibited:

Employers are prohibited from taking adverse action against an individual because they:

- Exercise the right to reproductive loss leave.
- Give information or testimony as to their own reproductive loss leave, or another person's reproductive loss leave, in an inquiry or proceeding related to rights guaranteed under the law.

Next Steps:

If you are a covered employer:

- Review policies and practices to ensure compliance with the changes made by the law by January 1, 2024.
- Train supervisors on the changes and how to respond to leave requests.

Time Clock Rounding in California Continues to Evolve

Read the article.

Minnesota Offers Updated Guidance on New Paid Sick Leave Law

The Minnesota Department of Labor and Industry has updated answers to frequently asked questions about a paid sick leave requirement that went into effect **January 1, 2024**. All employees who work at least 80 hours in a year for an employer in Minnesota are covered by the paid sick leave law.

The Details:

The updated guidance is dated December 4, 2023, and addresses various subjects, including accrual, front-loading, employee notice, pay during leave, recordkeeping, and more.

Accrual:

The updated guidance clarifies that:

Accrual begins immediately when an employee starts working for an employer, even before the employee works at least 80 hours in a year for an employer in Minnesota.

The law doesn't require employers to credit employees for partial hours of paid sick leave, such as a half-hour after 15 hours worked. Employers may credit paid sick leave in 30-hour blocks, resulting in one hour of such leave. Employers may also choose to credit employees in partial hours of paid sick leave, as long as they are earning paid sick leave hours at a rate of at least one hour for every 30 hours worked.

Paid sick leave is required to accrue for any employee who works at least 80 hours in a year for an employer in Minnesota. If an employee works in another state, the employer isn't required to provide paid sick leave under Minnesota law for out-of-state hours worked. However, the employee must accrue paid sick leave at a rate of at least one hour for every 30 hours worked in Minnesota.

Frontloading:

The guidance makes clear the law doesn't authorize prorating front-loaded paid sick leave hours. An employer must provide at least one hour of paid sick leave for every 30 hours worked, up to at least 48 hours per year, or front-load at least 48 hours. However, an employer could choose to place new employees on an accrual system when hired, and then switch them to a front-loaded system at the beginning of the next accrual year.

Employee Notice:

An employer can require notice of intent to use paid sick leave up to seven days in advance when it is used for a foreseeable reason, according to the guidance. If the employer has a written policy regarding the procedures to provide notice up to seven days in advance and the employer has provided a copy of this written policy to the employee, the employer can deny the employee's request to use paid sick leave, if the employee did not follow the notice requirements in the policy.

Pay During Leave:

Employers should ensure that employees receive paid sick leave at a rate equivalent to the hourly rate they would earn from employment, and in no case can such leave be paid at a rate below the applicable minimum wage.

Some employers pay employees through piece rates, by the mile, a daily rate or another non-hourly rate. An employer that uses one of these types of pay systems could calculate an hourly rate for employees by, for example, using an employee's last several paychecks to divide their total gross earnings by their total hours worked to determine an hourly rate for paid sick leave purposes.

Similarly, an employer could calculate the hourly rate of employees' daily pay by dividing their average number of hours worked per day by their daily pay rate.

Recordkeeping:

Minnesota law requires employers to include information about paid sick leave hours available for use and used in the pay period on earnings statements provided to employees. Simply telling employees how to find information about their paid sick leave hours in their timekeeping system won't comply with the requirement, according to the guidance. However, in addition to the earnings statement requirement, employers may choose to make this information available through their company portal, timekeeping software or other accessible systems as well.

Next Steps:

- Read the updated guidance in full.
- Ensure compliance with the law.
- Train supervisors on how to respond to leave requests.

Nevada Expands Domestic Violence Leave Law

Nevada has enacted legislation (Assembly Bill 163) that expands domestic violence leave protections. Assembly Bill 163 took effect on **January 1, 2024**.

The Details:

Under Senate Bill 361, which took effect on January 1, 2018, Nevada employers are required to provide up to 160 hours of job-protected leave for employees who are victims, or have family members and household members who are victims of domestic violence.

The following table summarizes the additional protections to domestic violence leave by Assembly Bill 163, which took effect on January 1, 2024.

Covered Leave	
Current Law	Beginning January 1, 2024
Employee Eligibility	
To be eligible for domestic violence leave, employees must be employed by their employer for at least 90 days. Employees may take leave for themselves, family members, or household members to: • Obtain medical care to address a health condition resulting from or related to domestic violence; • Obtain counseling or assistance; • Participate in safety planning or take other actions to increase their future safety; or • Participate in any court-related proceedings arising from domestic violence. Family members include a spouse, domestic partner, parent, minor child, or other adult person related by blood or marriage. Household members include any adult person residing with the employee at the time the domestic violence took place. Employers may require documentation supporting the need and duration of leave, such as copies of a police report, a copy of an application for a protection order, documentation from a physician, or an affidavit from a victim services organization. Such documentation should be kept confidential.	These protections are **expanded to apply to victims, and the family members and household members of victims of sexual assault.**

Covered Leave	
Current Law	**Beginning January 1, 2024**
Amount of Leave	
Eligible employees can take up to 160 hours of domestic violence leave in a 12-month period. The leave must be taken within 12 months of the date the act of domestic violence occurred.	No changes were made.
Pay	
Domestic violence leave may be paid or unpaid. Further, leave may be taken consecutively or intermittently if used for a reason for which leave may also be taken under the federal Family and Medical Leave Act (FMLA). In such cases, it must be deducted from the amount of leave the employee is entitled to under the FMLA.	No changes were made.
Reasonable Accommodations	
Employers must make reasonable accommodations for an employee who is the victim of domestic violence or whose family member or household member is a victim. The accommodation cannot create an undue hardship on the employee. Employers may require an employee to provide documentation that supports the need for the accommodation. Examples may include, but are not limited to: • A transfer or reassignment; • Modified work schedule; • A new work telephone number; or • Any other accommodation necessary to ensure the safety of the employee, the company, or other employees.	No changes were made.
Anti-Retaliation	
Employers are prohibited from disciplining, discharging, denying employment or a promotion, discriminating or threatening to take any adverse action against employees for exercising their rights under the law, including requesting a reasonable accommodation, participating in legal proceedings, or for requesting or taking domestic violence leave. Employees are also protected from retaliation when an act of domestic violence is committed against the employee at the workplace.	**Employers are also prohibited from:** • Denying an eligible employee from using their leave; or • Requiring an employee to find a replacement worker to take domestic violence leave.
Posting	
Employers must post a notice on the provisions of the law in a conspicuous area of the workplace.	No changes were made.
Recordkeeping	
Employers must retain records of the hours employees took for domestic violence leave. These records must be kept for at least two years and be made available for inspection, upon request from the Labor Commissioner. Employers must exclude the employee's name from the record, unless a request is for the purpose of an investigation.	No changes were made.

Next Steps:

- Review and amend domestic violence policies.
- Update **required employment posters**

State of New York Expands Restrictions on Non-Disclosure Provisions in Certain Agreements

New York State has enacted legislation (Senate Bill 4516) that further limits the terms employers may include in release agreements related to discrimination, harassment and retaliation. Senate Bill 4516 is **effective immediately** and applies to agreements entered into on or after November 17, 2023.

The Details:

Background:

New York General Obligations Law Section 5-336 prohibits an employer from requiring confidentiality provisions in agreements to resolve unlawful discrimination claims, unless requested by an employee.

A release agreement that has a confidentiality provision covering discrimination or sexual harassment claims must be executed in **two parts**. The agreement must state it is the employee's preference to enter the agreement; and the employee has 21 days to consider the agreement and seven days to revoke their consent after the expiration of the 21-day period.

Senate Bill 4516:

Senate Bill 4516 amends Section 5-336 to:

- Expand protections under the law, previously only granted to employees and potential employees, to now include independent contractors;
- Allow employees to accept the terms of a release agreement containing a confidentiality provision prior to the expiration of the 21-day period, instead of the previous law that required the 21 days to pass before the employee could sign any such agreement; and
- Render some agreements unenforceable, if release of a covered claim requires that the complainant:
  - Pay certain damages for violation of a non-disclosure or non-disparagement clause;
  - Forfeit all (or part of) the consideration for the agreement for violation of a non-disclosure or non-disparagement clause;
  - Make an affirmative statement, assertion or disclaimer that they were not subject to unlawful discrimination (including discriminatory harassment or retaliation).
- Add further restrictions to confidentiality agreements related to harassment, discrimination and retaliation.

Next Steps:

- Consult legal counsel to help ensure compliance with Senate Bill 4516.

State of New York Extends Time to File Claims of Unlawful Discrimination

New York State has enacted legislation (Senate Bill 3255), which increases the time to file a complaint of unlawful discrimination with the Division of Human Rights from one year to three years. Senate Bill 3255 takes effect on **February 15, 2024**.

The Details:

As background, under Section 297 of the New York Executive Law, there was a:

- **Three-year limit** to file a claim of sexual harassment; and
- **One-year limit** to file a complaint of all other unlawful discriminatory practices.

Senate Bill 3255:

Senate Bill 3255 amends Section 297 of the New York Executive Law, by extending the time a complaint of **any** unlawful discriminatory practice may be filed with the New York State Division of Human Rights to **three years**. The law's three-year statute of limitations will apply to all claims of unlawful discrimination that occur on (or after) **February 15, 2024**.

Next Steps:

Review policies and procedures with managers and human resource personnel on preventing and addressing claims of unlawful discrimination.

State of New York Seals Certain Criminal Records

New York State has enacted legislation (Assembly Bill A1029C: The Clean Slate Act), which will automatically seal certain criminal records and require employers to review hiring processes related to an applicant's criminal history. The Clean Slate Act, or "the Act," takes effect on **November 16, 2024**.

The Details:

The Act will require certain conviction records to be sealed from public access once an individual satisfies their sentence and remains a law-abiding citizen for a defined time.

The Act does not:

- Change an employer's obligation to conduct a job-related analysis before taking adverse action on the basis of a criminal conviction as required by New York's Article 23-A. As a reminder, factors to consider in a job-related analysis include assessing the following:
  - Severity and/or nature of the crime;
  - Age at the time of the offense;
  - Whether the offense affects an applicant's ability to perform specific job duties;
  - The time elapsed since the offense occurred;
  - Rehabilitation efforts;
  - Whether the individual is **bondable**;
  - Whether they possess a certificate of relief from disabilities;
  - New York's policy to encourage employers to hire applicants with prior convictions; and
  - The employer's interest to protect its property, staff and customers;
- Modify an employer's obligation under:
  - Local requirements (such as the New York City Fair Chance Act requirements); or
  - The federal Fair Credit Reporting Act.
- Change access (allowed under the law) for information on out-of-state or federal convictions through public records; or
- Affect or invalidate an active order of protection.

Convictions Covered Under the Law:

An individual will receive a clean slate (the automatic sealing of a criminal record), when the following occurs:

- For a **misdemeanor conviction**, at least three years have passed since the:
  - Individual was released from incarceration; or
  - Imposition of a sentence, provided there was no sentence of incarceration.
- For a **felony conviction**, at least eight years have passed from the date the individual was last released from incarceration, provided that the individual:
  - Does not have a criminal charge pending; and
  - Is not currently under the supervision of a probation or parole department.

See the **text of the law** for further details.

Convictions Not Covered Under the Law:

Class A felonies for which a maximum sentence of life imprisonment may be imposed, such as murder and domestic terror, and convictions that require an individual to register as a sex offender, are not eligible to be sealed under the Act.

Criminal Record Access Allowed Under the Law:

Records that are otherwise sealed may still be accessed by an entity that is:

- Required under state or federal law to conduct a fingerprint-based background check; or
- Authorized to conduct a fingerprint-based background check where a job applicant would work with children, the elderly or vulnerable adults (such as public-school teachers and police officers).

See the **text of the law** for further details.

The Record Sealing Process:

The State Office of Court Administration has up to three years to implement processes to identify and seal eligible conviction records.

Once an individual's record is sealed, unless allowed under a state, local or federal law:

- An employer would typically not be permitted to inquire about the conviction; and
- An individual would not be required to reveal it in response to a criminal inquiry.

Next Steps:

Prior to November 16, 2024:

- Review hiring and employment policies and practices.
- Refer to legal counsel for questions on the Act and its interplay with other laws.

State of New York to Require Written Agreements for Freelancers

New York State has enacted legislation (Senate Bill S5026: The Freelance Isn't Free Act, or "the Act"), requiring businesses in New York State to enter into written agreements with certain independent contractors. Senate Bill S5206 takes effect on **May 20, 2024**.

The Details:

The Act will require businesses in New York State to enter into a written agreement with a freelancer (independent contractor).

Covered Employers:

The law defines a hiring party as a person who retains a freelance worker to provide a service (except federal, state, local or foreign government entities).

Covered Workers:

The law defines a freelancer as a person or organization of no more than one natural person who a hiring party hired or retained as an independent contractor (freelancer) to provide services in exchange for an amount equal to or greater than $800 (either by itself or when combined with every contract for services between the same hiring party and freelancer during the preceding 120 days).

Note: The Act does not apply to services provided by attorneys, **construction contractors**, licensed medical professionals or **sales representatives**.

Written Agreement Requirements:

Under the law, an employer must furnish the freelancer with a physical or electronic copy of the required written agreement. The written agreement must include the following:

- The name and mailing address of the hiring party and the freelancer;
- An itemization of all services (and their value) to be provided;
- The rate and method of compensation;

Note: Once a freelancer begins working, a hiring party cannot require a freelancer to accept less compensation than was specified in the written agreement.

- The date:
  - A freelancer must be paid (or the mechanism that will determine payment dates); and
  - By which a freelancer must submit a list of services rendered (invoices) to meet internal processing deadlines for timely compensation by the payment date.

Note: If a payment date is not specified, a freelancer must be paid no later than 30 days after they complete their contracted services.

Non-Retaliation:

Under the law, employers may not threaten, intimidate, discipline, harass or discriminate against a freelancer, deny a work opportunity to a freelancer, or take any other action that penalizes a freelancer for exercising their rights under the law.

Recordkeeping:

A hiring party must provide a copy of the written agreement to the freelancer and keep a copy of the agreement for six years.

Note: If a dispute arises and a hiring party cannot present the written agreement, the freelancer's terms will be used.

Enforcement:

Freelancers have six years to file a complaint with the Commissioner of Labor or in court and may be entitled to the amounts owed for services provided to the hiring party and other penalties.

Employers may face fines of up to $25,000, provided there is reasonable cause to believe that the hiring party engaged in a pattern or practice of violating the Act.

Next Steps:

- Watch for model contracts in English and 12 other languages to be released on the **New York Department of Labor's website**.
- Review business relationships with independent contractors and evaluate which ones will likely cross the $800 threshold that requires a written agreement.
- Consult with legal counsel on developing freelance agreements pursuant to the Act.
- Ensure written agreements are entered into by May 20, 2024.

Texas Bans COVID-19 Vaccine Mandates

Texas has enacted legislation (Senate Bill 7) that bans certain COVID-19 vaccine mandates. Senate Bill 7 takes effect on **February 6, 2024**.

The Details:

The law prohibits a private employer from adopting or enforcing a mandate that requires an employee, contractor or applicant to be vaccinated against COVID-19 as a condition of employment or a contract position.

Note: The law applies to employer actions that occur on or after February 6, 2024.

Exceptions:

Under Senate Bill 7, healthcare facilities and providers may establish and enforce a policy to help prevent the spread of COVID-19. The policy may include requiring an individual who is an employee or contractor of the facility, or a provider or physician, that is not vaccinated against COVID-19 to use protective medical equipment (based on the level of risk the individual presents to patients from their routine and direct exposure to patients).

Non-Retaliation:

The law prohibits an employer from taking an adverse action that would punish, alienate, or otherwise adversely affect an employee, contractor, or applicant for refusing to be vaccinated against COVID-19.

Enforcement:

Employers that are found to have violated the law may be fined $50,000 per violation, unless the employer:

- Hires the applicant for employment or the contract position; or
- Reinstates the employee or contractor and provides them with back pay from the date of the adverse action and makes every reasonable effort to reverse the effects of the adverse action. This includes reestablishing employee benefits that the employee or contractor would have been eligible for, if the adverse action had not been taken.

Next Steps:

Texas employers should consult legal counsel to discuss the impact of Senate Bill 7 on their vaccination policies and practices.

Local

Chicago and Cook County, Illinois Adopt New Paid Leave Ordinances

Chicago and Cook County in Illinois have each enacted ordinances that will amend requirements that employers provide paid leave to employees.

The new Chicago ordinance requires both paid sick leave and paid leave that employees can use for any reason. The new Cook County ordinance requires paid leave employees can use for any reason.

The new ordinances will replace existing paid sick leave requirements in the city and county once they take effect.

Note: The Chicago ordinance was originally effective December 31, 2023, but was amended and delayed by six months. Chicago's **existing paid sick leave law** will remain in effect until July 1, 2024.

The Details:

Here's a summary of the ordinances:

Chicago	Cook County
Effective Date	
July 1, 2024 (originally was effective December 31, 2023, but was amended and delayed by six months).	**December 31, 2023.**
Covered Employers and Employees	
The city's ordinance applies to all employers with at least one "covered employee" working in Chicago. A covered employee is defined as one who works at least 80 hours for an employer within any 120-day period while physically present within the geographic boundaries of the city. Once the threshold is reached, the employee will remain a covered employee for the remainder of the time that the employee works for the employer. Any compensable time an employee spends within Chicago counts toward the hours worked. The city's ordinance applies to most individuals working in Chicago (including domestic workers), with some narrow exceptions that include: • Independent contractors (unless the independent contractor is a domestic worker); • Employees who work for governmental agencies other than the City and its "Sister Agencies" (the ordinance applies to City employees); • Employees working in the construction industry who are covered by a bona fide collective bargaining agreement (CBA); and • Other employees who are a party to a valid collective bargaining agreement (CBA) in effect on July 1, 2024. After July 1, 2024, the requirements of the ordinance may only be waived in a bona fide CBA, if the waiver is set forth explicitly in the agreement in clear and unambiguous terms.	The county's ordinance applies to all employers with at least one "covered employee" working in Cook County. The ordinance applies to most individuals working in the county except for: • Employees as defined in the federal Railroad Unemployment Insurance Act; • Federal and state employees; • Temporary college or university student-employees; • Certain short-term employees of an institution of higher learning; and • Independent contractors.

Chicago	Cook County
Accrual	
For every 35 hours worked, employees are entitled to accrue at least one hour of paid leave they can use for any reason and one hour of paid sick leave. The time must accrue in hourly increments and not fractional accruals. There is an exception that allows for monthly accrual if an employer provides employees more hours of leave than what is required under the ordinance. Accrual begins July 1, 2024 or the employee's first day of work, whichever is later. Employees who are classified as exempt from overtime will be presumed to work 40 hours per week, unless the employee's normal workweek is less than 40 hours.	Employees are entitled to accrue paid leave at a rate of at least one hour of paid leave for every 40 hours worked, up to 40 hours accrued in a year. Accrual begins December 31, 2023, or the employee's first day of work, whichever is later. Employees who are classified as exempt from overtime will be presumed to work 40 hours per week, unless the employee's normal workweek is less than 40 hours.
There is a cap on accrual of 40 hours per 12-month period for each type of paid leave. The year or "12-month period" for a covered employee must be calculated from the date the employee begins to accrue paid time off under the ordinance.	There is a cap on accrual of 40 hours per 12-month period for the paid leave.
Instead of providing the leave via the accrual method, employers can choose to frontload all 40 hours of paid leave for any reason and 40 hours of paid sick leave on the first day of employment or the first day of the 12-month period. (e.g., on July 1, 2024, for employees working in Chicago at that time).	Instead of providing the leave via the accrual method, employers can choose to frontload all 40 hours of paid leave on the first day of employment or the first day of the 12-month period. (December 31, 2023, for employees working in Cook County at that time).
Carryover	
When an employer provides the paid leave via the accrual method, employees are entitled to carryover up to 16 hours of unused paid leave for any reason and 80 hours of paid sick leave from one year to the next. When employers frontload the paid leave for any reason, no carryover is required. The ordinance is silent as to whether frontloading precludes the year-end carryover for paid sick leave. However, proposed regulations suggest frontloaded paid sick leave will be treated the same. Employers should watch for further guidance.	When an employer provides the paid leave via the accrual method, any unused paid leave must be carried over to the following year, but employers may limit use to 40 hours in any 12-month period. When employers frontload the paid leave for any reason, no carryover is required.
Rate of Pay	
Employees must receive their regular rate of pay when using paid sick leave and paid leave for any reason, which includes continuing healthcare benefits, if the employee receives healthcare benefits from their employer. For nonexempt employees, the regular rate of pay to be used for all leave is calculated by dividing the employee's total wages by the total hours worked in full pay periods in the prior 90 days of employment. These wages do not include overtime pay, premium pay, tips or gratuities, or commissions, but an employee's hourly rate of pay for leave cannot be less than the employee's base hourly wage or the applicable minimum wage.	Employees must receive their hourly rate of pay for paid leave. However, employees engaged in an occupation in which gratuities or commissions have customarily and usually constituted and have been recognized as part of the remuneration for hire purposes, must be paid at least the full minimum wage in the jurisdiction in which they are employed when paid leave is taken.

Chicago	Cook County
Existing Policies	
If a covered employee accrued paid sick leave prior to July 1, 2024, and the employer's existing paid time off policy doesn't comply with the ordinance, any unused paid sick leave the employee is entitled to carryover must be transferred to the new paid sick leave bank. If an employer already has a paid time off policy that meets or exceeds the minimum requirements of the ordinance, the employer is not required to provide additional paid leave for any reason or paid sick leave. **Note:** However, if an employer chooses to charge time required under the ordinance against its paid time off policy, the employer must clearly state in its policy that it is doing so.	Employers that provide any type of paid leave policy that satisfies the minimum amount of leave required in the ordinance aren't required to modify the policy, if the policy offers an employee the option, at the employee's discretion, to take paid leave for any reason.
Unlimited Paid Time Off Policies	
In lieu of the accrual method or frontloading, employers may grant employees "unlimited paid time off" on the first day of their employment or on the first day of a 12-month period, so long as such unlimited hours of paid time may be used for any reason. Employers who use this method are not required to carry over an employee's unused paid time off to the next benefit year, regardless of whether the paid time off is considered paid leave for any reason or paid sick leave. Employers considering this approach should discuss the pros and cons with counsel prior to implementing such a policy.	No specific provisions cover unlimited Paid Time Off (PTO) policies.
Use	
The city's ordinance does not include any maximum caps on how many hours of paid leave for any reason or paid sick leave an employee may use during a 12-month period.	Employers are under no obligation to provide more than 40 hours of paid leave for an employee in the 12-month period, unless the employer agrees to do so.
Employees may begin to use accrued paid leave for any reason 90 days after the start of employment and employers may require paid leave for any reason to be taken in four-hour increments. Employers are prohibited from asking employees for the reason for the need for such leave and are prohibited from asking for documentation. However, an employer may establish reasonable policies for the use of paid leave for any reason to: • Require an employee to give reasonable notice, as long as it doesn't exceed seven days before using such paid leave; and • Maintain continuity of employer operations by requiring an employee to obtain reasonable preapproval from the employer before using paid leave, subject to rules that will be published by the city's Office of Labor Standards.	Employees may begin to use accrued paid leave for any reason 90 days after the start of employment or 90 days after December 31, 2023, whichever is later. Paid leave may be taken for any reason of the employee's choosing. An employee isn't required to provide a reason for the leave and may not be required to provide documentation or certification as proof or in support of the leave. An employee may choose whether to use the paid leave prior to using any other leave provided by the employer or state law. Employers may require up to seven days' advance notice of a foreseeable need for paid leave and notice as soon as practicable for unforeseeable use of paid leave.

Chicago	Cook County
Use, continued	
Employees are entitled to use paid sick leave 30 days after the start of employment and employers may require paid sick leave to be taken in two-hour increments. If an employee's need for paid sick leave is reasonably foreseeable, an employer may require up to seven days' notice before the leave is taken. When an employee is absent for more than three consecutive workdays, the employer may require certification that the use of paid sick leave was covered by the ordinance. See **the text of the original ordinance** for details on the type documentation that may be required for paid sick leave. Employees may use paid sick leave for the following reasons: • The employee or their family member is ill or injured, or for the purpose of receiving professional care, including preventative care, diagnosis, or treatment, for medical, mental, or behavioral issues, including substance use disorders; • The employee or their family member is the victim of domestic violence, a sex offense, or trafficking; • The employee's place of business is closed by order of a public official due to a public health emergency, or the employee needs to care for a family member whose school, class, or place of care has been closed; or • The employee obeys an order issued by the mayor, the Governor of Illinois, the Chicago Department of Public Health, or a treating health care provider, requiring the employee to: o Stay at home to minimize the transmission of a communicable disease; o Remain at home while experiencing symptoms or sick with a communicable disease; or o Obey a quarantine order or isolation order issued to the employee. Unless obligated by a city, state, or federal law, an employee may choose whether to use paid sick leave or paid leave for any reason prior to using any other leave provided by the employer or by city, state, or federal law. In other words, employers cannot force concurrent use of leaves provided by law or employer policy, unless concurrent use is required by city, state or federal law.	

Chicago	Cook County
Payout	
Certain employers are required to pay out unused paid leave that can be used for any reason upon separation from employment or transfer outside of the geographic limits of the city. • Employers with 1-50 covered employees are not required to pay out unused paid leave upon separation or transfer. • Employers with 51-100 covered employees must pay out up to 16 hours of unused paid leave for any reason upon separation or transfer until July 1, 2025. On or after July 1, 2025, these employers must pay out all of the unused paid leave upon separation or transfer. • Employers with more than 100 covered employees must pay out all unused paid leave for any reason upon separation or transfer, effective July 1, 2024. • As indicated above, employers can satisfy the ordinance requirements through the use of an unlimited paid time off policy. If they do so, employers must pay employees who are separating employment or transferring to a location outside of Chicago 40 hours of paid time off for any reason minus the hours of paid time off the employee used during the 12-month period before the date of separation. No employers are required to pay out unused paid sick leave upon separation or transfer, unless they have promised otherwise. An employee may request payout of their unused paid leave for any reason if they have not received a work assignment for 60 days. If an employer has not offered an employee a work assignment for 60 days, the employer must proactively notify the employee in writing that the employee may request payout of their accrued, unused paid leave for any reason. If an employee is transferred to a separate division, entity, or location, but still remains employed by the same employer, the employee may continue to use all accrued, unused paid leave for any reason and paid sick leave accrued.	With one limited exception, no payout is required. However, paid leave under the law mustn't be charged to an employee's Paid Time Off (PTO) bank or employee vacation account unless the employer's policy permits such a credit. If the paid leave under the law is charged to an employee's PTO bank or employee vacation account, then any unused paid leave must be paid to the employee upon the employee's termination, resignation, retirement, or other separation to the same extent as vacation time under existing Illinois law or rule. If an employee is transferred to a separate division, entity, or location, but still remains employed by the same employer, the employee may continue to use all accrued, unused paid leave.
Employer Notice Requirements	
Each time wages are paid, employers must provide employees with a written notice that includes: • The amount of paid leave for any reason available for use. • Accrual rate for paid leave for any reason. • The amount of paid leave for any reason accrued since the last notice. • The amount of paid leave for any reason used since the last notice. • The amount of paid sick leave available for use. • Accrual rate for paid sick leave. • The amount of paid sick leave accrued since the last notice. • The amount of paid sick leave used since the last notice.	Employers must post a notice about the ordinance in a conspicuous place at each facility in Cook County. If the workforce has a significant portion of non-English speakers, the notice must be posted in other languages as well. This notice must also be provided to employees at the time of hire.

Chicago	Cook County
Employer Notice Requirements, continued	
Employers that credit paid sick leave and paid leave for any reason on a monthly basis may update the notification monthly. Employers may choose a reasonable system for providing this notice, such as listing the information on each wage statement or an online system employees can use to access the information. Employers must post a notice about the ordinance in a conspicuous place at each facility with a covered employee within the geographic boundaries of the city. If the employer's workforce includes a significant portion of non-English speakers, the employer must notify the city's Office of Labor Standards, which will create a notice in other languages. Covered employees may also ask the city for the notice in other languages, which employers must also display in accordance with the ordinance. Employers must provide a notice of the employee's rights under the ordinance with the employee's first paycheck and annually thereafter with a paycheck issued within 30 days of July 1. The city's Office of Labor Standards will create a model notice. At the start of employment, employers must also provide written notice of their paid time off policy, including accrual rates and any employee paid time off notification requirements. Employers must also provide their written paid time off policy to each of its covered employees in their primary language. Notice of any change to the employer's paid time off policy requirements must be provided to employees at least five days before the change takes effect. If the change will affect the employee's final compensation, the notice must be provided at least 14 days before.	
Recordkeeping	
Employers must retain the following records for five years or the duration of a claim, civil action, or investigation, whichever is longer: • Employee names, addresses, hours worked, pay rates, and wage agreements; • Number of paid leave hours earned each year, dates on which the leave was used and paid; and • Any other records necessary to demonstrate compliance with the ordinance. Employers must provide a copy of the records to covered employees upon request.	Employers must make and preserve records documenting hours worked, paid leave accrued and taken, and remaining paid leave balance for each employee for a period of at least three years or the duration of a claim, civil action, or investigation, whichever is longer. Any employer that provides paid leave on an accrual basis must provide notice of the amount of paid leave accrued or used by an employee upon request by the employee.

Interaction with the Illinois Paid Leave for All Workers Act and Chicago Paid Leave and Paid Sick and Safe Leave Ordinance:

Effective January 1, 2024, Illinois has its own law requiring paid leave that employees can use for any reason. However, the state law doesn't apply to any employer that is covered by a municipal or county ordinance that is in effect on January 1, 2024 that requires employers to give any form of paid leave to their employees.

As a result, it currently appears that with respect to:

Employees working outside of Cook County – Covered employers must comply with the Illinois Paid Leave for All Workers Act.

Employees working in Cook County, but outside of Chicago – Covered employers must comply with the Cook County Paid Leave Ordinance. Assuming that the municipality where the employee works does not "opt-out" of the Cook County Paid Leave Ordinance, then the employer would not need to comply with the Illinois Paid Leave for All Workers Act.

Employees working in Chicago – Covered employers must comply with the Chicago Paid Leave and Paid Sick and Safe Leave Ordinance and do not need to comply with the Illinois Paid Leave for All Workers Act.

The Cook County Paid Leave Ordinance does not address whether it applies to municipalities that have enacted their own paid leave laws (e.g., Chicago). The county is expected to issue additional guidance on the ordinance by January 1, 2024, and this issue may be addressed in that guidance.

In the interim, there are many nuances and a significant degree of uncertainty. You may wish to consult with legal counsel to ensure compliance based on the information and guidance presently available.

Next Steps:

- Review policies, forms and practices to ensure compliance with the applicable ordinances.
- Train supervisors on the new law and how to handle leave requests.

Saint Paul, Minnesota Amends Sick Leave Ordinance for 2024

Saint Paul, Minnesota has amended an ordinance that requires employers in the city to provide sick leave to employees. The changes take effect **January 1, 2024**, and are meant to more closely align the ordinance with a new state paid sick leave law that takes effect on the same date.

The Details

Current Law	Beginning January 1, 2024
Definition of Family Member	
A family member is defined as the employee's: • Child, step-child, adopted child, foster child, or adult child; • Spouse; • Sibling; • Parent, step-parent, mother-in-law, or father-in-law; • Grandchild; • Grandparent; • Registered domestic partner; • Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.	The definition of a family member is expanded and defined as the employee's: • Child, including foster child, adult child, legal ward, child for whom the employee is legal guardian or child to whom the employee stands or stood in loco parentis (in place of a parent); • Spouse or registered domestic partner; • Sibling, step-sibling, or foster sibling; • Biological, adoptive or foster parent, step-parent, or a person who stood in loco parentis (in place of a parent) when the employee was a minor child; • Grandchild, foster grandchild or step-grandchild; • Grandparent or step-grandparent; • A child of a sibling of the employee; • A sibling of the parents of the employee; • A child-in-law or sibling-in-law; • Any of the family members listed above of an employee's spouse or domestic partner; • Any other individual related by blood or whose close association with the employee is the equivalent of a family relationship; and • Up to one individual annually designated by the employee.

Current Law	Beginning January 1, 2024
Carryover of Accrued Leave	
Employers must permit employees to carry over accrued but unused paid sick leave into the following year. However, employers may cap total accrual at 80 hours.	Employers must permit employees to carry over accrued but unused sick leave into the following year. Employers may cap total accrual at 80 hours. **In lieu of allowing carryover into the following year, an employer may provide an employee with paid sick leave for the year that meets or exceeds the requirements of the ordinance that is available for the employee's immediate use at the beginning of the subsequent year as follows:** • 48 hours, if an employer pays an employee for accrued but unused paid sick leave at the end of a year at the same hourly rate as an employee earns from employment; or • 80 hours, if an employer doesn't pay an employee for accrued but unused paid sick leave at the end of a year at the same or greater hourly rate as an employee earns from employment. **Note:** Employers must apply the same accrual/frontloading method to all employees.
Use	

Employees may use accrued leave beginning 90 calendar days after the start of their employment. After 90 calendar days of employment, employees may use sick leave as it is accrued.
 	
An employee may use accrued sick leave for the following reasons:
• The employee's or a family member's:
  • Mental or physical illness, injury, or health condition;
  • Need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or
  • Need for preventive medical care;
• When the employee or family member is a victim of domestic abuse, sexual assault, or stalking;
• The closure of the employee's place of business by order of a public official to limit exposure to an infectious agent, biological toxin, or hazardous material or other public health emergency; and
• To care for a family member whose school or place of care has been closed due to inclement weather, loss of power, loss of heating, loss of water, or other unexpected closure.
	Employees may use accrued leave as it is accrued.
	An employee may use sick leave for:
	• The employee's or a family member's mental or physical illness, treatment, or preventive care;
	• Absence due to domestic abuse, sexual assault, or stalking of the employee or a family member;
	• Closure of the employee's workplace due to weather or public emergency or closure of a family member's school or care facility due to weather or public emergency;
	• When determined by a health authority or healthcare professional that the employee or family member is at risk of infecting others with a communicable disease; and
	• **The employee's inability to work or telework because the employee is: (i) prohibited from working by the employer due to health concerns related to the potential transmission of a communicable illness related to a public emergency; or (ii) seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, a communicable disease related to a public emergency and such employee has been exposed to a communicable disease or the employee's employer has requested a test or diagnosis.**

Employee Notice	
Employers must provide sick leave upon request of an employee. When possible, the employee must include in the request the expected duration of the absence. An employer may require an employee to comply with the employer's usual and customary notice and procedural requirements for absences or for requesting leave, provided that such requirements do not interfere with the purposes for which the leave is needed.	If the need for use is **foreseeable**, employers **may require up to seven days' advance notice** of the need for leave. If the need is not foreseeable, an employer **may require an employee to give notice of the need for leave as soon as practica**l. An employer that requires notice of the need to use paid sick leave must have a written policy containing reasonable procedures for employees to provide notice, and must provide a written copy of such policy to employees.

Current Law	Beginning January 1, 2024
Documentation	
If the absence is more than three consecutive days, the employer may require reasonable documentation that the absence is covered by the ordinance. The employer must give the employees at least 14 days from the date they return to work to provide such documentation.	If the absence is more than three consecutive days, the employer may require reasonable documentation that the absence is covered by the ordinance. **See the text of the ordinance for details on what is considered reasonable documentation.**
Employer Notice, Wage Statements and Recordkeeping	
Employers must provide notice to employees about their rights under the ordinance. To comply with this requirement, employers may post a notice in a conspicuous and accessible place in each establishment where covered employees are employed. Employers must distribute or post written policies on paid sick leave. The city has developed a poster and model notice. Upon employee request, the employer must provide, in writing or electronically, the amount of leave the employee has available and the amount they used. Employers can choose a reasonable system for providing this notification, including, but not limited to, listing the information on each pay stub or implementing an online system where employees can access their own information. Employers must maintain accurate records for each employee showing the amount of hours worked in the city, as well as the accrual and use of sick leave. The records must be retained for a period of at least three years. An employer must allow an employee to inspect records upon request.	Employers must provide notice to employees about their rights under the law. **The notice must include specified information** and must be provided in **English and the primary language of the employee**. The notice must be provided by January 1, 2024 or at the start of employment, whichever is later. The city will prepare a uniform employee notice that employers can use and will make it available in English and other languages. **The means used by the employer must be at least as effective as the following options for providing notice:** • Posting a copy of the notice at each location where employees perform work and where the notice must be readily observed and easily reviewed by all employees performing work; • Providing a paper or electronic copy of the notice to employees; or • A conspicuous posting in a web-based or app-based platform through which an employee performs work. **Employers that provide an employee handbook to their employees must include in the handbook the notice of employee rights under the law.** Upon employee request, the employer must provide, in writing or electronically, the amount of leave the employee has available and the amount they used. Employers can choose a reasonable system for providing this notification, including, but not limited to, listing the information on each pay stub or implementing an online system where employees can access their own information.

The amended ordinance also changes and clarifies the definition of covered employers and employees. **See the text of the amended ordinance for details**.

Next Steps:

If you have employees working in Saint Paul, Minnesota:

- Provide paid sick leave in accordance with the requirements of the amended ordinance (and **Minnesota state law**) beginning January 1, 2024.
- Monitor **the website of the Department of Human Rights and Equal Employment Opportunity** for updates to the required notices.
- Post the updated required notices by January 1, 2024.
- Update leave policies and forms and employee handbooks to comply with the amended ordinance.
- Train supervisors on the amended ordinance.

Minimum Wage

Minimum Wage Announcements: 12/16/23 – 1/15/24

The following states or localities have announced new minimum wage increases.

State or Locality	Minimum Wage Rate	Minimum Tipped Cash Wage	Effective Date(s)	New or Updated Poster Requirement?	Notes
Richmond, CA (if employer does not pay toward medical benefits)	$11.73	$11.73*	1/1/24	Yes	
Richmond, CA (if employer pays at least $1.50 per hour toward medical benefits)	$15.70	$15.70	1/1/24		
District of Columbia	$17.50	$10.00	7/1/24	Yes	

*CA does not allow the use of a tip credit.

Download a PDF of a comprehensive listing of state and local minimum wage rates.

Federal

DOL Adopts New Independent Contractor Test

Read the article.

IRS Announces 2024 Automobile Business Use Mileage Rates

On December 14, 2023, the Internal Revenue Service (IRS) issued via Notice 2024-08 the 2024 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, moving and charitable purposes.

The Details:

As of January 1, 2024, the standard mileage rates for the use of a car (including vans, pickups, or panel trucks) will be:

- 67 cents per mile for business miles driven;
- 21 cents per mile driven for moving purposes;* and
- 14 cents per mile driven in service to a charitable organization.

***Applicable to members of the Armed Forces only.**

Exceptions for Moving Expenses:

The Tax and Jobs Act of 2017 suspended the deduction for moving expenses for taxable years beginning after December 31, 2017, and before January 1, 2026, except for members of the Armed Forces on active duty who move pursuant to a military order and incident to a permanent change of station. Thus, except for taxpayers that are members of the Armed Forces, the standard mileage rate provided in Notice 2024-08 is not applicable for the use of an automobile as part of a move occurring during the suspension.

For a copy of Notice 2024-08, click on the link provided below:

https://www.irs.gov/pub/irs-drop/n-24-08.pdf.

IRS Announces 2024 Medical Mileage Rate

On December 14, 2023, the Internal Revenue Service (IRS) issued Notice 2024-08 announcing that the standard mileage rate, effective January 1, 2024, for use of an automobile to obtain medical care is 21 cents per mile.

The Details:

Transportation expenses, such as automobile mileage, that qualify as tax deductible medical expenses under Internal Revenue Code Section 213 generally can be paid or reimbursed on a tax-free basis by a health flexible spending arrangement, health reimbursement arrangement, or health savings account, if the expense is "primarily for, and essential to, medical care."

For a copy of Notice 2024-08, click on the link provided below:

https://www.irs.gov/pub/irs-drop/n-24-08.pdf.

IRS Releases 2024 Publication 15

The Internal Revenue Service (IRS) has released Publication 15 (Circular E) Employer's Tax Guide for use in 2024. Publication 15 explains an employer's tax responsibilities, important updates for 2024, and employer instructions for payroll and non-payroll tax withholding.

Some of the highlights of "What's New" in the 2024 Publication 15 are as follows:

Pub. 15 is now for all employers. Pub. 15 can now be used by all employers, including agricultural employers and employers in the U.S. territories. Pub. 51, Employer's Tax Guide; Pub. 80, Federal Tax Guide for Employers in the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and Pub. 179, Guía Contributiva Federal para Patronos Puertorriqueños, have been discontinued. If you prefer Pub. 15 in Spanish, there is a new Pub. 15 (sp) available for 2024.

Social Security and Medicare Tax for 2024. The rate of Social Security tax on taxable wages is 6.2 percent each for the employer and employee. The Social Security wage base limit is $168,600.

The Medicare tax rate is 1.45 percent each for the employee and employer, unchanged from 2023. There is no wage base limit for Medicare tax.

Social Security and Medicare taxes apply to the wages of household workers who receive $2,700 or more in cash wages in 2024. Social Security and Medicare taxes apply to election workers who are paid $2,300 or more in cash or an equivalent form of compensation in 2024.

For a copy of the 2024 Publication 15, click on the link provided below:

https://www.irs.gov/pub/irs-pdf/p15.pdf.

IRS Releases 2024 Version of Publication 15-A

The Internal Revenue Service (IRS) has posted the 2024 version of Publication 15-A, the Employer's Supplemental Tax Guide located at https://www.irs.gov/pub/irs-pdf/p15a.pdf.

The Details:

IRS Publication 15-A supplements IRS Publication 15 (Circular E), by providing more specialized and detailed employment tax information on certain topics covered in IRS Publication 15.

There are sections in IRS Publication 15-A on: (1) Who Are Employees; (2) Employee or Independent Contractor; (3) Employees of Exempt Organizations; (4) Religious Exemptions and Special Rules for Ministers; (5) Wages and Other Compensation; (6) Sick Pay Reporting; (7) Special Rules for Paying Taxes; and (8) Federal Income Tax Withholding on Retirement Payments and Annuities.

A highlight under "What's New" is as follows:

Social Security and Medicare Tax for 2024. The Social Security tax rate is 6.2 percent each for the employee and employer. The Social Security wage base limit is $168,600. The Medicare tax rate is 1.45 percent each for the employee and employer, unchanged from 2023. There is no wage base limit for Medicare tax. Social Security and Medicare taxes apply to the wages of household workers you pay $2,700 or more in cash wages in 2024. Social Security and Medicare taxes apply to election workers who are paid $2,300 or more in cash or an equivalent form of compensation in 2024.

Next Steps:

Employers should review Publication 15-A to learn the requirements in 2024 regarding employment taxation.

IRS Releases 2024 Publication 15-B

The Internal Revenue Service (IRS) has released the 2024 version of Publication 15-B (Employer's Tax Guide to Fringe Benefits), which contains information for employers on the employment tax treatment of various fringe benefits, including accident and health coverage, adoption assistance, company cars and other employer-provided vehicles, dependent care assistance, educational assistance, employee discount programs, group term life insurance, moving expense reimbursements, health savings accounts (HSAs), and transportation (commuting) benefits. (Publication 15-B uses the term "employment taxes" to refer to federal income tax withholding as well as Social Security and Medicare (FICA) and federal unemployment (FUTA) taxes.) Publication 15-B is a supplement to Publication 15 (circular E) and IRS Publication 15-A (Employer's Supplemental Tax Guide).

The Details:

A few of the highlights under "What's New" in 2024 version of Publication 15-B are as follows:

Cents-per-mile rule. The business mileage rate for 2024 is 67 cents per mile. You may use this rate to reimburse an employee for business use of a personal vehicle, and under certain conditions, you may use the rate under the cents-per-mile rule to value the personal use of a vehicle you provide to an employee.

Qualified parking exclusion and commuter transportation benefit. For 2024, the monthly exclusion for qualified parking is $315 and the monthly exclusion for commuter highway vehicle transportation and transit passes is $315.

Contribution limit on a health flexible spending arrangement (FSA). For plan years beginning in 2024, a cafeteria plan may not allow an employee to request salary reduction contributions for a health FSA in excess of $3,200.

For a copy of IRS Publication 15-B "Employer's Tax Guide to Fringe Benefits" (for benefits provided in 2024), click on the link provided below.

https://www.irs.gov/pub/irs-pdf/p15b.pdf.

IRS Final Regulations on De Minimis Error Corrections for Information Returns

Read the article.

ADP Compliance Resources

ADP maintains a staff of dedicated professionals who carefully monitor federal and state legislative and regulatory measures affecting employment-related human resource, payroll, tax and benefits administration, and help ensure that ADP systems are updated as relevant laws evolve. For the latest on how federal and state tax law changes may impact your business, visit the ADP ***Eye on Washington*** Web page located at **www.adp.com/regulatorynews.**

ADP, Inc.
One ADP Boulevard, Roseland, NJ 07068
adp.com

Updated on January 18, 2024