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Eye on Washington
State and Local Update

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

Topics covered in this issue:

Leave

California Provides Required Notice for Food Sector Employees' Paid Sick Leave

On April 16, 2020, California Governor Gavin Newsom signed an Executive Order to support California workers of large employers in the food sector industry impacted by the COVID-19 pandemic with two weeks of paid sick leave. The intent of the Governor's action was to fill in a gap left under the Families First Coronavirus Response Act (FFCRA) that provides similar paid leave benefits for only employers with fewer than 500 workers.

Under the Executive Order "food sector workers" include farmworkers, agricultural workers, and those working in grocery stores or fast food chains and as delivery drivers. Further, a "hiring entity" is defined as a private sole proprietorship or any kind of private entity whatsoever that has 500 or more employees in the United States.

Under the Executive Order:

- Hiring entities shall provide COVID-19 "Supplemental Paid Sick Leave" to each food sector worker, who performs work for or through a hiring entity, if the worker is unable to work due to a federal, state, or local quarantine or isolation order; advised by a health-care provider to self-quarantine or self-isolate due to COVID-19 concerns; or prohibited to work by the hiring entity due to concerns over potential transmission.
- An employee is entitled to 80 hours of COVID-19 "Supplemental Paid Sick Leave" if the worker is considered to work full-time, or work an average of 40 hours per week, and is in addition to other paid sick leave available to the worker.

Additionally, the Executive Order provides health and safety standards to increase worker and customer protection by permitting workers at food facilities to wash their hands every 30 minutes, or as needed, to increase proper sanitation measures.

Required Notice:

The Executive Order requires that the California Labor Commission make publicly available a model notice advising employees of their paid sick leave rights and stipulated for the Supplemental Paid Sick Leave only that "if a Hiring Entity's Food Sector Workers do not frequent a workplace, the Hiring Entity may satisfy the notice requirement ... by disseminating notice through electronic means, such as by electronic mail."

For a copy of the model notice, click on the link provided below.

https://www.dir.ca.gov/dlse/COVID-19-Food-Sector-Workers-poster.pdf

A copy of the Executive Order may be found at the link below.

https://www.gov.ca.gov/wp-content/uploads/2020/04/4.16.20-EO-N-51-20.pdf

Final Regulations on Tipped-Employee Required Information Issued by Maryland

Maryland had provided proposed regulations requiring restaurant employers — that include a tip credit as part of the wage of a tipped worker — provide a written or electronic wage statement for each pay period that shows the effective hourly tip rate as derived from the employer-provided cash wages plus all reported tips for each workweek of the pay period.

On April 10, 2020, Maryland released the final regulations which were identical to the proposed regulations and will become **effective October 1, 2020**.

The final regulation reads as follows:

COMAR 09.12.41.20 Restaurant Tip Credit Wage Statement.

A. Definitions.

(1) In this regulation, the following terms have the meanings indicated.

(2) Terms Defined.

(a) "Tip credit wage statement" means a written or electronic statement that shows the employee's effective hourly rate of pay, including employer-paid cash wages plus all reported tips, for all tip credit hours worked for each workweek in the pay period.

(b) "Restaurant" has the meaning stated in Regulation .07D of this chapter.

B. A restaurant employer shall provide each employee for whom the employer utilizes a tip credit with a tip credit wage statement for each workweek in the pay period no later than two weeks following the end of the pay period.

C. A restaurant employer may satisfy the requirement in §B of this regulation by providing an online system through which an employee may obtain the employee's tip credit wage statement.

New Jersey Again Amends Family Leave, Temporary Disability Laws to Expand COVID-19 Benefits

New Jersey has again amended the state's Family Leave Act (NJFLA) and Temporary Disability Law (TDL) to expand the availability of job-protected leave and benefits for those affected by the COVID-19 pandemic.

Background:

We previously reported that on March 25, 2020, New Jersey Governor Phil Murphy signed Senate Bill 2304 (S2304) expanding the scope of the New Jersey Earned Sick Leave Law (ESLL), the New Jersey Family Leave Act, and the New Jersey Temporary Disability Law to cover absences related to epidemics such as the coronavirus (COVID-19) pandemic. The law is designed to create immediate enhanced eligibility for employee leaves in New Jersey.

The Legislature, by 78-0 vote, approved the bill and the Governor signed it on the same day the Assembly passed the measure.

For more information on Senate Bill 2304, click on the link below which will take you to the April 2020 Eye on Washington. Go to the article titled "New Jersey Enacts Expansion of Leave and Disability Law Benefits Due to Epidemics"

https://www.adp.com/resources/articles-and-insights/articles/e/eow-state-and-local-april-2020.aspx?referrer={E2920188-A93E-4144-90CE-442A865BF40B}

Amendments to the Amendments

The amendments largely revise the state's previous changes to those laws passed as noted above. The latest revisions, however, do not affect the previous amendments to New Jersey's Earned Sick Leave Law.

Family Leave Act Amendments

New Jersey wholly eliminated changes to the definition of "serious health condition" implemented on March 25, 2020, in favor of a revised definition of "family leave."

Now, protected leave under the NJFLA includes the following, among other reasons:

> In the event of a state of emergency declared by the Governor, or when indicated to be needed by the Commissioner of Health or other public health authority, an epidemic of a communicable disease, or efforts to prevent spread of a communicable disease, which:
>
> (a) requires in-home care or treatment of a child due to the closure of the school or place of care of the child of the employee, by order of a public official due to the epidemic or other public health emergency;
>
> (b) prompts the issuance by a public health authority of a determination, including by mandatory quarantine, requiring or imposing responsive or prophylactic measures as a result of illness caused by an epidemic of a communicable or known or suspected exposure to the communicable disease because the presence in the community of a family member in need of care by the employee, would jeopardize the health of others; or
>
> (c) results in the recommendation of a health-care provider or public health authority, that a family member in need of care by the employee voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of that family member in need of care by the employee, would jeopardize the health of others.

The revised NJFLA also eliminates the previous amendment to the definition of "serious health condition," returning it to the definition before the March 25, 2020, amendments. In light of the expansion to include leaves related to communicable diseases, the revised NJFLA vaguely defines a "health-care provider" as a "duly licensed health-care provider or other health- care provider deemed appropriate by the director."

The amendments also describe the contents of the certification an employer may request to support a request for NJFLA leave for pandemic-related reasons. The employer may request certifications from health-care providers and other individuals (*e.g.*, schools, places of care, health-care authorities, and public officials) where the reason is not necessarily related to the actual health condition of a covered family member.

The employer may request a certification from the employee seeking leave for pandemic-related reasons, including:

- For leave taken to provide in-home care or treatment of a child due to the closure of the school or place of care of the child of the employee, by order of public official due to the epidemic or other public health emergency, the date on which the closure of the school or place of care of the child of the employee commenced and the reason for such closure;
- For leave taken due to a public health authority's issuance of a determination requiring or imposing responsive or prophylactic measures as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of a family member in need of care by the employee would jeopardize the health of others, the date of issuance of the determination and the probable duration of the determination; or
- For leave taken because a health-care provider or public health authority recommends that a family member in need of care by the employee voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of that family member in need of care by the employee would jeopardize the health of others, the date of the recommendation, the probable duration of the condition, and the medical or other facts within the health-care provider or public health authority's knowledge regarding the condition.

The amendments also provide that an employer may not utilize the "key employee" exception to deny NJFLA leave where a state of emergency is declared and the family leave is for an epidemic or a communicable disease, a known or suspected exposure to a communicable disease, or efforts to prevent the spread of a communicable disease.

Finally, the revisions permit a covered employee to use NJFLA for pandemic-related reasons intermittently, provided the employee gives advance notice and attempts to schedule the intermittent leave in a manner designed not to disrupt normal operations. Additionally, if possible, the employee should provide the employer with a regular schedule of the day or days of the week on which the intermittent leave will be taken. These provisions should permit parents to schedule leaves with their respective employers to allow for seamless child care while the other parent tends to work.

Temporary Disability Law Amendments

Much like the NJFLA amendments, the state revised the TDL to wholly eliminate the March 25, 2020, change to the definition of "serious health condition." Instead, the state amended the terms "disability," "family temporary disability leave," and "compensable disability" to include:

> In the event of a state of emergency declared by the Governor, or when indicated to be needed by the Commissioner of Health or other public health authority [...] an illness caused by an epidemic of a communicable disease, a known or suspected exposure to the communicable disease, or efforts to prevent spread of the communicable disease, which requires in-home care or treatment of the employee [***family member for "family temporary disability leave"***] due to:
>
> (i) the issuance by a health-care provider or the commissioner or other public health authority of a determination that the presence in the community of the employee [***family member***] may jeopardize the health of others; and
>
> (ii) the recommendation, direction, or order of the provider or authority that the employee [***family member***] be isolated or quarantined as a result of suspected exposure to a communicable disease.

Accordingly, benefits from temporary disability and family temporary disability funds are available for employees who take leave for pandemic-related reasons covered under the revised TDL. The amendment also eliminates the seven-day waiting period for benefits related to the above reasons.

San Francisco, California, Enacts Emergency Leave Ordinance

On April 14, 2020, the San Francisco Board of Supervisors passed the San Francisco Public Health Emergency Leave Ordinance (PHELO or the "Ordinance"). On April 17, 2020, Mayor London Breed signed PHELO into law. It became effective upon the Mayor's signature.

San Francisco's Office of Labor Standards Enforcement (OLSE) has now issued guidelines to help employers and employees understand their obligations and rights under the PHELO. Some of the highlights of PHELO are as follows:

- The projected end of date of PHELO is June 17, 2020, or the end of the public health emergency, whichever occurs first, unless the Board of Supervisors decides to extend it.
- Applies to private employers with 500 or more employees worldwide. For businesses whose employee numbers fluctuate above and below 500 over a year, the average number of employees per pay period in 2019 will be the employer's business size in 2020.
- Applies to any person providing labor or services for remuneration who is an employee under California law including part-time and temporary employees who perform work as an employee in San Francisco.
- Does not cover the following workers: 1) private-sector employees at San Francisco International Airport (SFO); (2) private-sector employees who work at businesses located in federal enclaves within San Francisco (e.g., the Presidio); and 3) independent contractors.
- Employers may elect to limit their health-care worker and/or emergency responder employees' leave, but at a minimum these employees may use leave if they are unable to work or telework because either a health-care provider advises them to self-quarantine, or they are experiencing symptoms associated with COVID-19, seeking a medical diagnosis, and do not meet the CDC guidance on return-to-work criteria applicable to health care personnel with confirmed or suspected COVID-19.
- Employees who were full-time (40 hours per week) employees as of February 25, 2020, are entitled to 80 hours of leave.

- Employees who were part-time employees as of February 25, 2020, are entitled to the number of Public Health Emergency Leave hours equal to the average number of hours over a two-week period that the employee was scheduled over the previous six months ending on February 25, 2020, including hours for which the employee took leave of any type.
- Emergency Leave must be made available to employees in addition to any paid time off, including paid sick leave under the San Francisco Paid Sick Leave Ordinance, that the employer offered or provided to employees on or before April 17, 2020.
- Emergency Leave pay for nonexempt employees is to be calculated using the regular rate of pay for the workweek in which the employee uses Emergency Leave whether or not the employee works overtime in that week. Alternatively, the employer may calculate Emergency Leave by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

Further PHELO Guidance Provided

The OLSE issued guidelines via frequently asked question to help employers and employees understand their obligations and rights under the PHELO. A sampling of these FAQs are as follows:

What are the effective dates of the Ordinance?

The Public Health Emergency Leave Ordinance took effect on April 17, 2020. As an emergency ordinance, it will expire on June 17, 2020, unless reenacted by the Board of Supervisors, or upon the termination of the Public Health Emergency, whichever occurs first.

Does the Ordinance require employers to provide Public Health Emergency Leave to independent contractors?

No. The Ordinance applies to employees. However, merely labeling someone as an "independent contractor" does not make it so. Consistent with California law, whether a person is an employee or independent contractor is a fact-specific inquiry that is determined by a variety of factors.

When is Public Health Emergency Leave available to employees?

Public Health Emergency Leave is available to employees on the effective date of the Ordinance, April 17, 2020, regardless of how long the employee has been employed.

Are employers required to provide Public Health Emergency Leave in addition to paid sick leave provided under the San Francisco Paid Sick Leave Ordinance (PSLO)?

Yes. Public Health Emergency Leave must be made available to employees in addition to any paid time off, including paid sick leave under the San Francisco Paid Sick Leave Ordinance, that the employer offered or provided to employees on or before April 17, 2020. However, employers that provide additional paid leave in response to the COVID-19 outbreak are permitted to offset that leave from the requirement. The amount of Public Health Emergency Leave that an employer must provide is reduced for every hour of paid leave or paid time off consistent with the Ordinance that the employer allowed an employee to take, not including previously accrued hours or hours accrued under the PSLO, on or after February 25, 2020.

Does the Ordinance require employers to permit employees to use Public Health Emergency Leave when they are working or scheduled to work outside of San Francisco?

No.

Can employers require advance notice for an employee's use of Public Health Emergency Leave?

Employers may require employees to comply with reasonable notice procedures, but only when the need for Public Health Emergency Leave is foreseeable. However, in a particular case, an advance notification requirement may be unreasonable because the time required for the advance notification is excessive or the method required for providing advance notification is unnecessarily burdensome.

Can an employer require its employees to take off the full day to use Public Health Emergency Leave?

No. Employers may not require, as a condition of an employee's taking Public Health Emergency Leave, that the employee take paid sick leave in increments of more than one hour.

Are employers required to pay out unused Public Health Emergency Leave upon separation of employment?

No. Upon an employee's separation from employment, an employer is no longer obligated to provide or pay for any Public Health Emergency Leave not used prior to separation.

How should employers calculate the Public Health Emergency Leave rate of pay?

Public Health Emergency Leave must be compensated in the same manner as paid sick leave under the PSLO, Admin. Code § 12W.3(h), which provides two options for nonexempt employees. Employers may calculate Public Health Emergency Leave for Nonexempt Employees using the regular rate of pay for the workweek in which the employee uses Public Health Emergency Leave, whether or not the employee works overtime in that week. Alternatively, the employer may calculate Public Health Emergency Leave by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment. Public Health Emergency Leave for Exempt Employees must be calculated in the same manner as the employer calculates wages for other forms of paid leave time. In no circumstances may Public Health Emergency Leave be provided at less than the San Francisco minimum wage.

Are employers required to list an employee's Public Health Emergency Leave balance on the employee's pay stub?

To the extent feasible, on the same written notice that an employer is required to provide under Section 246(i) of the California Labor Code, an employer shall set forth the amount of Public Health Emergency Leave that is available to the employee under this emergency ordinance. If an employer provides unlimited paid time off to an employee, the employer may satisfy this requirement by indicating on the notice or the employee's itemized wage statement "unlimited."

Employers may provide the Public Health Emergency Leave balance either on the employee's itemized wage statement or in a separate writing provided on the designated pay date with the employee's payment of wages.

This requirement shall apply only to employers that are required by state law to provide such notice to employees regarding paid sick leave available under California law.

The OLSE FAQs may be found at the following link.

https://sfgov.org/olse/sites/default/files/PHEL%20FAQ%2004.17.20.pdf

For a copy of the PHELO, click on the link provided below.

https://sfgov.legistar.com/View.ashx?M=F&ID=8255753&GUID=82A3925E-A260-4481-83E4-D1531C8761BD

Virginia Enacts Nondiscrimination Law With Leave Component

On April 11, 2020, Virginia Governor Ralph Northam signed into law Senate Bill 712 (SB 712), which prohibits discrimination on the basis of pregnancy, childbirth, or related medical conditions and requires reasonable accommodation for the known limitations of persons related to pregnancy, childbirth, or related medical conditions. The legislation becomes effective on July 1, 2020.

Under SB 712 reasonable accommodations includes leave to recover from childbirth. Specifically, the enacted legislation states in part as follows:

> "Reasonable accommodation" includes more frequent or longer bathroom breaks, breaks to express breast milk, access to a private location other than a bathroom for the expression of breast milk, acquisition or modification of equipment or access to or modification of employee seating, a temporary transfer to a less strenuous or hazardous position, assistance with manual labor, job restructuring, a modified work schedule, light duty assignments, and leave to recover from childbirth.

It is important to note that employers are prohibited from requiring an employee to take leave if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of such employee.

For a copy of SB 712, click on the link provided below.

https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+SB712ER+pdf

Payroll

Wage Deduction Guidance During Pandemic Issued by Numerous States

As a result of the COVID-19 pandemic and the ensuing financial difficulties experienced by many employees, a number of states have issued guidance regarding (1) state tax levies, (2) child support payments and (3) garnishments. If a state is not shown below, it has not issued any guidance regarding wage deductions. If a state is shown below and one of more of the categories (1-3 listed above) is not addressed, this indicates that the state has not issued guidance for the category. For example, California has issued guidance on (1) state tax levies and (2) child support payments but no guidance has been issued for (3) garnishments.

Alaska:

Child Support

The Alaska Department of Revenue's Child Support Services Division (CSSD) has issued COVID-19 frequently asked questions (FAQs) regarding child support. The FAQs note that employers remain responsible for withholding child support from any earnings a worker may receive and must continue to submit those payments to CSSD. Workers may submit payments directly using the CSSD Members Service Portal if an employer has closed. If an employee is not working sufficient hours to qualify for health insurance, the employer is not required to continue to provide insurance pursuant to the National Medical Support Notice (NMSN). If children are unenrolled, employers must contact CSSD. Due to the COVID-19 emergency, CSSD will not sanction employers who fail to respond to income withholding orders (IWOs) within the required time. If an employer reduces hours, the employer must withhold the full amount based on the pay period frequency, subject to withholding limits as provided by an IWO.

For a copy of the Alaska Child Support FAQs, click on the link provided below.

https://childsupport.alaska.gov/Home/COVID-FAQ.aspx

California:

State Tax Levies

Through July 15, 2020, the California Franchise Tax Board (FTB) has implemented a suspension of a number of collection activities including wage attachments, bank levies, and field agents calls/visits. For more information, see **https://childsupport.ca.gov/employer-covid-19-updates/**

Child Support

On its "Employer COVID-19 Updates" webpage at **https://childsupport.ca.gov/employer-covid-19-updates/**, California is urging employers to remit child support payments electronically via (1) EFT-ACH credit (2) EFT- ACH debit; and (3) bulk-file upload in order to prevent possible delays in processing a paper check.

Colorado:

Child Support

Colorado Child Support Services has issued guidance via frequently asked questions found at **https://childsupport.state.co.us/income-withholding** telling employers to continue to withhold child support payments utilizing normal procedures from wages to employees whose hours have been reduced. Employers should hold income withholding orders (IWO) for employees who have been furloughed until they return to work.

Connecticut:

State Tax Levies

The Connecticut Department of Revenue Services (DRS) has launched the Priority One Taxpayer Assistance Program to assist business and individual taxpayers who may be unable to meet their current collections obligations due to the COVID-19 pandemic. Any taxpayer who is the subject of a payment plan, bank warrant, wage execution, or other levy by DRS and needs relief or assistance because of the impact of COVID-19, can contact DRS directly to speak to a tax professional. DRS has established a hotline and email address dedicated to Priority One questions. The DRS Priority One Hotline can be reached at (860) 541-7650 (Monday to Friday, 8:30

a.m. to 4:30 p.m. to speak to a DRS representative or to leave a voicemail message). Taxpayers may also contact DRS via email at the following address: DRSPriorityOne_CollectionsAssist@po.state.ct.us.

In order to assist DRS in evaluating email inquiries, taxpayers are encouraged to provide as much information as possible about their situation and the relief that is being sought.

For more information, see: **https://portal.ct.gov/DRS/Press-Room/Press-Releases/2020/DRS-Announces-Priority-One-Taxpayer-Assistance-Program**

District of Columbia:

Garnishment

The COVID-19 Response Supplemental Amendment Act of 2020 found at **https://code.dccouncil.us/dc/council/acts/23-286.html** prohibits debt collectors from initiating, filing, or threatening garnishment of wages and earnings. This prohibition will be in place for 60 days after the public health emergency ceases to be in effect.

Illinois:

Garnishment

Via Executive Order No. 23 found at **https://www2.illinois.gov/Pages/Executive-Orders/ExecutiveOrder2020-25.aspx** Illinois suspending wage deduction summons for creditor garnishments (but not to child support orders) that are sent to employers during the pandemic. The suspension currently applies through May 30, 2020.

Indiana:

State Tax Levies

On March 31, 2020, the Indiana Department of Revenue announced the suspension or creation of new levies and garnishment collection actions and the cancellation of current levy and garnishment involuntary collection actions. The announcement may be found at **https://calendar.in.gov/site/dor/event/dor-announces-helping-hoosiers-covid-19-relief-services/**

Kentucky:

State Tax Levies

Via an announcement found at **https://revenue.ky.gov/News/Pages/DOR-Suspends-All-Enforced-Collection-Action-Due-to-the-COVID-19-Emergency.aspx** Kentucky announced that all enforced state tax collection actions are suspended due to the COVID-19 emergency.

Louisiana:

Child Support

Via frequently asked questions (FAQs) found at **http://www.dss.state.la.us/page/185** the Department of Children & Family Services (DCFS) Louisiana announced that it did not have the authority to suspend child support payments and therefore such payments will not be suspended during the COVID-19 emergency. However, the DCFS will determine whether to pursue enforcement action on a case-by-case basis. Employers are encouraged to remit child support payments by electronic funds transfer online or by phone.

Massachusetts:

State Tax Levies

The Department of Revenue (DOR) announced at https://www.mass.gov/info-details/important-covid-19-coronavirus-response-update-from-dor the following: (1) bank and wage levies have been temporarily suspended; (2) issuance of levies on employers for refusing to honor a levy on an employee has been temporarily suspended; and (3) cases are being referred to external collection agencies.

Garnishments

An Emergency Rule found at **https://www.mass.gov/news/ags-office-issues-emergency-regulation-to-protect-consumers-from-harmful-debt-collection** prohibits creditors from garnishing wages or earnings during the COVID-19 emergency.

Minnesota:

State Tax Levies

Minnesota announced at **https://www.revenue.state.mn.us/covid-19-faqs-individuals** that it has temporarily suspended the issuance of new levies from wages.

Missouri:

Garnishments

Numerous Missouri circuit courts have announced at **https://www.courts.mo.gov/pandemic/** the issuance of writs of attachment.

Nevada:

Garnishments

The Nevada Department of Business and Industry announced at **https://www.acainternational.org/assets/licensing-guidance-from-state-agencies-in-response-to-coronavirus/nv---nrs-649-covid-19-03.20.2020.pdf** that, *effective March 17, 2020*, the Las Vegas Justice Court suspended issuing any writ of execution which includes garnishments. Any property garnished or attached after March 17, 2020, must be released back to the judgment debtor.

New Jersey:

State Tax Levies

The New Jersey Division of Taxation has announced in its webpage found at **https://www.state.nj.us/treasury/taxation/covid19.shtml** that levy actions have been temporarily reduced or suspended during the COVID-19 emergency.

New York:

Garnishments

The collection of medical, student debt and other state-referred debt owed to the State of New York and referred to the Office of the Attorney General (OAG) for collection, will be halted, from March 16, 2020 through May 17, 2020, in response to growing financial impairments resulting from the COVID-19 emergency. Additionally, the OAG will accept applications for suspension of all other types of debt owed to the State of New York and referred to the OAG for collection. More information may be found at **https://ag.ny.gov/press-release/2020/attorney-general-james-and-governor-cuomo-renew-suspension-state-debt-collection**

Child Support

The New York Department of Child Support Enforcement (DCSE) has issued frequently asked questions (FAQs) found at **https://www.childsupport.ny.gov/DCSE/HomePage** for employers regarding COVID-19 and child support. The FAQs note that employers are required to notify DCSE when an employee has been laid off. If the employer is remitting payments due under an income withholding order or if an employer has received a noncompliance letter for a furloughed employee, the employer must complete the Notification of Employment Termination section and mail it to the DCSE.

North Carolina:

Garnishments

North Carolina announced at **https://ncdoj.gov/attorney-general-josh-stein-takes-additional-steps-to-protect-north-carolina-consumers-during-covid-19-pandemic/** that state Department of Justice (DOJ) efforts for collection of state debts have been suspended. However, this does not include state tax levies.

Ohio:

Garnishments

Some courts including Franklin County Municipal Court **http://www.fcmcclerk.com/documents/court/2020-4-6_Administrative%20Order%2007-2020.pdf** and Allen County Municipal Court **http://www.ohiojudges.org/Document.ashx?DocGuid=33780cea-432f-44df-86b9-1275461aadfd** have suspended the issuance of new garnishments.

Oregon:

State Tax Levies

The Oregon Department of Revenue (DOR) has taken temporary steps to reduce the automatic issuance of garnishments. Taxpayers may request a temporary wage garnishment hold by contacting DOR prior to June 30, 2020. More information may be found at **https://www.oregon.gov/dor/Documents/Collections%20COVID19%20relief.pdf**

Garnishments

The Oregon Judicial Department has announced at **https://finesandfeesjusticecenter.org/content/uploads/2020/04/Oregon-Judicial-Department-Fines-and-Fees.pdf** that the issuance of new garnishments is suspended during the COVID-19 emergency.

Child Support

The Oregon Department of Justice (DOJ) has released frequently asked questions (FAQs) found at **https://www.doj.state.or.us/child-support/resources-for-applicants/covid-19/** regarding child support during the COVID-19 emergency. If an employee is not working enough hours to qualify for health insurance, the DOJ will not require the employer to continue providing health insurance pursuant to the National Medical Support Notice (NMSN). Employers are advised to notify the DOJ when a child is unenrolled. Employers will not be sanctioned for failure to respond to an income withholding order (IWO) within the required time. If an employee's hours are reduced, the employer must withhold the full amount based on the pay period frequency subject to withholding limits provided in the IWO.

Pennsylvania:

State Tax Levies

Governor Wolf provided an announcement found at **https://www.revenue.pa.gov/Pages/COVID19.aspx** that the Pennsylvania Department of Revenue (DOR) will be providing tax relief for residents and workers affected by the coronavirus (COVID-19) public health emergency. DOR will: (1) pause payments for existing payment plans at the taxpayer's request; (2) provide flexible terms for new payment plans; (3) suspend or reduce automatic enforcement actions with respect to liens, wage garnishments, bank attachments, license inspections, requirements for tax clearances and use of private collection agencies; (4) broaden audit penalty abatement and interest relief; and (5) continue to administer tax credit and incentive programs. In addition, the DOR will abate penalties in most cases where the taxpayer has remitted the trust fund taxes collected.

Rhode Island:

Child Support

The Rhode Island Office of Child Support Services (OCSS) has released frequently asked questions (FAQs) found at **http://www.cse.ri.gov/documents/Website-Covid-QA1.pdf** with answers to employers' questions. Employers are not required to continue health insurance coverage if the employee does not work enough hours to qualify for coverage. However, employers must notify OCSS when a child is unenrolled. Employers will not be sanctioned for failure to respond within the required time to income withholding orders (IWOs) but are required to respond as soon as possible.

Texas:

Garnishments

The Supreme Court of Texas issued an Emergency Order found at **https://www.txcourts.gov/media/1446356/209054.pdf** stating that a garnishment may be issued but service of the garnishment will not occur *until May 7, 2020*. For any accounts that are currently garnished, the Court urges parties to reach an agreement on the garnishment and courts are encouraged to aid and facilitate a quick adjudication.

Virginia:

Child Support

The Virginia Division of Child Support Enforcement (DCSE) has released frequently asked questions (FAQs) found regarding COVID-19. The FAQs state that employers are required to notify the DCSE when an employee has been laid off, sent home without pay, or terminated. The DCSE should be contacted if an employee is still employed, but not making child support payments, because the employee has been temporarily laid off (e.g., furloughed). Employers that receive a compliance letter for an employee who has been laid off due to COVID-19 must contact the DCSE and provide information such as the employee's name and date of layoff. If the employer

was remitting payments under an income withholding order, the employer must complete the Notification of Employment Termination on the order and email or send the order to the DCSE. If a payment becomes 30 days past due, interest may apply in accordance with the child support order.

The FAQs may be found at: **https://www.dss.virginia.gov/files/division/dcse/announcements/frequently_asked_questions_covid19.pdf**

Washington:

Garnishments

Governor Inslee issued Proclamation 20-49 found at **https://www.governor.wa.gov/sites/default/files/proclamations/20-49%20-%20COVID-19%20Garnishment.pdf** that suspends statutes that permit collection of consumer debt judgments, including bank account and wage garnishments, and waives accrual of post-judgment interest on consumer debt judgments during the period of the Proclamation. The Proclamation was designed to protect consumer assets, including federal stimulus checks, from consumer debt collections.

Child Support

The Washington Division of Child Support (DCS) has updated its Employer Resources webpage found at **https://www.dshs.wa.gov/esa/division-child-support/employer-resources**. Employers who have been forced to lay off or terminate employees during the COVID-19 emergency should contact the DCS. If an employer has been remitting child support payments, the employer must inform the DCS of the date that the payments will cease due to a termination or layoff. Employers must provide the DCS with the name, phone number of the business, employee names, case identifiers or SSNs, dates of termination and date of last pay. Reporting may be done by phone at (800) 562-0479, email at: **dcs-cru@dshs.wa.gov**, or by mail at: Division of Child Support, PO Box 11520, Tacoma, WA 98411.

Wisconsin:

State Tax Levies

The Wisconsin Department of Revenue (DOR) has issued proposed guidance regarding audit and collection relief related to COVID-19. In the proposed guidance, DOR states that no new levies of wages will be issued during the COVID-19 public health emergency. Additionally, if current wage levies cause a hardship, individuals may contact the DOR at (608) 266-7879 to request a reduction or suspension of payments *until July 15, 2020*.

The proposed guidance may be found at: **https://www.revenue.wi.gov/Pages/TaxPro/2020/AuditCollectionReliefCOVID.aspx**

Wyoming

Child Support

The Wyoming Child Support Program (the "Program") issued frequently asked questions (FAQs) found at **https://childsupport.wyo.gov/covid-19-coronavirus-updates/**. Employers are not required to continue providing health insurance pursuant to a National Medical Support Notice (NMSN) if an employee is not working enough hours to qualify for health insurance. Employers are advised to notify the Program when a child is unenrolled. Employers will not be sanctioned for failure to respond to an income withholding order (IWO) within the required time. If an employee's hours are reduced, an employer must withhold the full amount based on the pay period frequency subject to withholding limits provided on the IWO.

Tax Relief for Nonresident Emergency Relief Workers in Colorado

The Colorado Department of Revenue (CDOR) has announced via a notice titled "Nonresident Disaster Relief Worker Exemption/Subtraction" (the "Notice") that the wages of nonresident emergency relief workers working in Colorado during a declared state disaster emergency, such as the coronavirus (COVID-19), are exempt from Colorado income tax.

Disaster relief work is defined as including repairing, renovating, installing, building or rendering services that relate to infrastructure that has been damaged, impaired, or destroyed by a declared state disaster emergency or providing emergency medical, firefighting, law enforcement, hazardous material, search and rescue, or other emergency service related to a state declared disaster emergency. The Governor has declared a disaster emergency due to the presence of COVID-19 in Colorado.

It is important to note the exemption does not apply to employees who are residents of Colorado.

CDOR advised employers in the Notice that they should not withhold Colorado income tax from any wages paid to any nonresident for

such disaster-related work. In addition, nonresident disaster relief workers should not file a Colorado income tax return unless Colorado income tax was erroneously withheld from their wages for the disaster-related work and they are seeking a refund.

If Colorado income tax was withheld for the disaster-related work during the emergency, nonresident workers qualify for a subtraction. CDOR emphasizes that Colorado residents are not eligible for the subtraction.

For a copy of the Notice, click on the link provided below.

https://www.colorado.gov/pacific/tax/nonresident-disaster-relief-worker-exemption-subtraction

Massachusetts Releases Guidance on Tax Implications of an Employee Working Remotely Due To the COVID-19 Pandemic

Massachusetts has released Technical Information Release ("TIR") 20-5 which describes the Massachusetts personal income tax, withholding and corporate excise implications of an employee working remotely in a state other than the state where the employee previously worked, solely due to the 2019 novel Coronavirus pandemic. It also explains the application of the Massachusetts Paid Family and Medical Leave program where an employee is working remotely in a different state. TIR 20-5 is designed to minimize disruption for employers and employees during the state of emergency and are effective for the period beginning March 10, 2020 and ending on the date on which the Governor gives notice that the state of emergency declared in Executive Order 591 is no longer in effect.

Highlights of TIR 20-5 are found below:

Personal Income and Withholding Tax

- For the duration of the Massachusetts COVID-19 state of emergency, all compensation received for personal services performed by a non-resident who, immediately prior to the Massachusetts COVID-19 state of emergency, was an employee engaged in performing such services in Massachusetts, and who, during such emergency, is performing such services from a location outside Massachusetts due solely to the Massachusetts COVID-19 state of emergency, will continue to be treated as Massachusetts source income subject to personal income tax under M.G.L. c. 62 and personal income tax withholding.
- A resident employee of another state suddenly working in Massachusetts due to a state's COVID-19 state of emergency who continues to incur an income tax liability in that other state because of that state's sourcing rule, will be eligible for a credit for taxes paid to that other state under G.L. c. 62, § 6(a). In addition, the employer of such employee is not obligated to withhold Massachusetts income tax for the employee to the extent that the employer remains required to withhold income tax with respect to the employee in such other state.

Sales and Use Tax Nexus

- For the duration of the COVID-19 state of emergency in Massachusetts, the presence of one or more employees that previously worked in another state but, solely due to the COVID-19 pandemic, are working remotely from Massachusetts, will not in and of itself trigger nexus for sales and use tax collection purposes.

Corporate Excise

- For the duration of the Massachusetts COVID-19 state of emergency, Massachusetts will not consider the presence of one or more employees working remotely from Massachusetts solely due to the COVID-19 pandemic to be sufficient in and of itself to establish corporate nexus. In addition, such presence will not, of itself, cause a corporation to lose the protections of Public Law 86-272.

Paid Family and Medical Leave (PFML)

Under the Massachusetts PFML program, businesses are required to collect and remit PFML contributions on behalf of individuals who perform services in Massachusetts. M.G.L. c. 175M, § 1. For the duration of the Massachusetts COVID-19 state of emergency, an individual who previously performed services outside of Massachusetts and was not subject to PFML will not become subject to PFML solely because the individual is temporarily working from home in Massachusetts due to the emergency as declared by such other state. Likewise, an individual who previously performed services in Massachusetts but is temporarily working from home outside of Massachusetts solely due to the Massachusetts COVID-19 state of emergency continues to be subject to the PFML rules.

For a copy of TIR 20-5, click on the link provided below:

https://www.mass.gov/technical-information-release/tir-20-5-massachusetts-tax-implications-of-an-employee-working

Minnesota Announces Stance on Taxation of Employees Temporarily Working From Home Due To COVID-19

On April 14, 2020, the Minnesota Department of Revenue (DOR) announced that it will not seek to establish nexus for any business tax, including withholding tax, solely because an employee is temporarily working from home due to the COVID-19 pandemic. The DOR will not impose added individual income tax or payroll withholding tax requirements for employees who ordinarily work outside the state but are temporarily telecommuting from a Minnesota location due to COVID-19.

For Minnesota residents, there are no additional payment or withholding requirements as they are already taxed on income earned inside and outside the state. For non-Minnesota residents, the apportionment of their income may change based on the number of days they physically work in Minnesota.

For further information, see the attached links:

COVID-19 Frequently Asked Questions for Businesses

https://www.revenue.state.mn.us/covid-19-faqs-businesses

COVID-19 Frequently Asked Questions for Individuals

https://www.revenue.state.mn.us/individuals

Nevada Releases Daily Overtime 2020 Annual Bulletin

The State of Nevada Department of Business and Industry, in conjunction with the two-tiered minimum wage change, has posted their "Daily Overtime 2020 Annual Bulletin." The minimum wage for employees who are offered qualified health benefits from their employer is $1.00 lower than the minimum wage for employees who are not offered qualified health benefits from their employer.

Under Nevada law, employers must pay one-and-a-half times (1.5) an employee's regular wage rate whenever an employee who is paid less than one-and-a-half times the applicable minimum wage rate works more than 40 hours in any workweek or more than eight hours in any workday, unless otherwise exempted.

The following amounts are the wage rates below which daily overtime may be applicable. These rates are effective as of July 1, 2020.

For employees to whom qualifying health benefits have been made available by the employer:

- If the employee is paid less than $12.00 per hour. (Calculated by taking minimum wage, effective July 1, 2020, and multiplying by one-and-a-half times ($8.00 x 1.5 = $12.00)

For all other employees:

- If the employee is paid less than $13.50 per hour. (Calculated by taking minimum wage, effective July 1, 2020, and multiplying by one-and-a-half times ($9.00 x 1.5 = $13.50)

For a copy of the Daily Overtime 2020 Annual Bulletin, click on the link provided below.

http://labor.nv.gov/uploadedFiles/labornvgov/content/Employer/2020%20Annual%20Bulletin%20-%20Daily%20Overtime.pdf

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North Dakota Declares No Nexus for Employees or Employers Teleworking Due To COVID-19

The North Dakota State Tax Commissioner (STC) has updated its Coronavirus (COVID-19) Guidance for North Dakota Taxpayers during COVID-19.

The guidance in the form of frequently asked questions (FAQs) notes that North Dakota will not assert income tax nexus in situations where employers are permitting employees to temporarily telework (telecommute or work from home) due to COVID-19 restrictions and recommendations. Additionally, the STC will not require for corporate income tax purposes that employers include employees who are working remotely in North Dakota due to COVID-19, but who normally work out-of-state, be included in the numerator of the payroll factor.

Two of the most relevant FAQs are provided below:

Q: Because of COVID restrictions and recommendations, some of our employees are present in North Dakota in a temporary telecommuting capacity. Would this create nexus for 2020 for our company?

A: If the telecommuting is attributable to a COVID-related response and is intended to be temporary, North Dakota will not assert income tax nexus on that basis alone.

Q: Because of COVID restrictions and recommendations, some of our employees, whose payroll which is ordinarily assignable to another state for payroll factor purposes, are telecommuting from a location in North Dakota. Is this payroll included as North Dakota payroll?

A: If the telecommuting is attributable to a COVID-related response and is intended to be temporary, North Dakota will not require inclusion of that payroll in the numerator of the payroll factor.

To access the North Dakota guidance, click on the link provided below.

https://www.nd.gov/tax/covid-19-tax-guidance/

Pennsylvania Provides Guidance on Taxation of Employees Temporarily Telecommuting Due To Pandemic

Pennsylvania has provided guidance in the form of frequently asked questions (FAQs) regarding the taxation of an employee's wages when an employee is temporarily telecommuting for work due to the COVID-19 pandemic. Governor Tom Wolf issued a Proclamation of Disaster Emergency on March 6, 2020.

Those FAQs are provided below:

Will an employee working from home temporarily due to the COVID-19 pandemic create nexus for PA Corporate Net Income Tax (CNIT) purposes for a business that otherwise does not have nexus with PA?

As a result of COVID-19 causing people to temporarily work from home as a matter of safety and public health, Pennsylvania will not seek to impose CNIT nexus solely on the basis of this temporary activity occurring during the duration of this emergency.

Will an employee working from home temporarily due to the COVID-19 pandemic create nexus for Sales and Use Tax (SUT) purposes for a business that otherwise does not have nexus with PA?

As a result of COVID-19 causing people to temporarily work from home as a matter of safety and public health, Pennsylvania will not seek to impose SUT nexus solely on the basis of this temporary activity occurring during the duration of this emergency.

If an employee who normally works in PA and receives PA source compensation works from home in another state temporarily due to the COVID-19 pandemic, does the source of his compensation change to non-PA source compensation?

If the employee is working from home temporarily due to the COVID-19 pandemic, Pennsylvania would not consider that as a change to the sourcing of the employee's compensation. It would remain PA source income for all tax purposes, including PA-40 reporting, employer withholding and three-factor business income apportionment purposes for S Corporations, partnerships and individuals.

For a copy of the FAQs, click on the link provided below.

https://revenue-pa.custhelp.com/app/answers/detail/a_id/3739/related/1

Virginia to Increase Minimum Wage

Virginia House Bill 395 (HB 395) has been enacted into law which increases the state minimum wage as shown below. Currently, Virginia adheres to the federal minimum wage of $7.25 per hour. The increase schedule is shown below:

From May 1, 2021, until January 1, 2022, every employer shall pay to each of its employees' wages at a rate not less than the greater of (i) $9.50 per hour or (ii) the federal minimum wage.

From January 1, 2022, until January 1, 2023, every employer shall pay to each of its employees' wages at a rate not less than the greater of (i) $11.00 per hour or (ii) the federal minimum wage.

From January 1, 2023, until January 1, 2025, every employer shall pay to each of its employees' wages at a rate not less than the greater of (i) $12.00 per hour or (ii) the federal minimum wage.

From January 1, 2025, until January 1, 2026, every employer shall pay to each of its employees' wages at a rate not less than the greater of (i) $13.50 per hour or (ii) the federal minimum wage.

From January 1, 2026, until January 1, 2027, every employer shall pay to each of its employees' wages at a rate not less than the greater of (i) $15.00 per hour or (ii) the federal minimum wage.

From and after January 1, 2027, every employer shall pay to each of his or her employees' wages at a rate not less than the greater of (i) the adjusted state hourly minimum wage or (ii) the federal minimum wage.

HB 395 did not modify the minimum cash wage currently in place for tipped employees which is $2.13 per hour.

For a copy of HB 395, click on the link provided below.

https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+HB395ER2

Wisconsin Tax Law Conforms to Certain CARES Act Provisions

The Coronavirus Aid, Relief, and Economic Security Act (H.R. 748, "CARES Act"), specifically Section 2206, provides that employers are permitted to provide a student loan repayment benefit to employees, contributing up to $5,250 annually toward an employee's student loans. Such payments would be excluded from the employee's income. The $5,250 cap applies to both the new student loan repayment benefit and educational assistance under § 127 of the IRC. The provision applies to any student loan payments made by an employer on behalf of an employee after the date of enactment and before January 1, 2021. In addition, Section 3701 of the CARES Act permits Health Savings Accounts to be used for telehealth services. Finally, Section 3702 of the CARES Act permits the inclusion of certain over-the-counter medical products as qualified medical expenses for Archer Medical Savings Accounts, Flexible Spending Accounts, and Health Reimbursement Arrangements.

Wisconsin, by the enactment of Assembly Bill A1038 (A1038), has adopted these provisions for Wisconsin state income tax purposes.

The bill became effective on April 17, 2020.

For a copy of A1038, click on the link provided below.

https://legiscan.com/WI/text/AB1038/2019

Charleston, West Virginia, Provides Guidance on Employees Temporarily Teleworking

The City of Charleston, West Virginia has issued a City Collector Opinion clarifying that an employee who is teleworking or on paid leave will still be considered employed by a location within the city and is not considered permanently assigned to an outside location. Employers are required to continue withholding and remitting the user fee.

Charleston residents, who are temporarily working from home and who are employed by employers located outside Charleston, should not have the user fee withheld. These employees are not employed by a location within the city and are only temporarily and involuntarily conducting business from their homes in Charleston for a non-Charleston employer.

For a copy of the City Collector Opinion, click on the link provided below.

https://www.charlestonwv.gov/index.php/documents/covid-19-city-user-fee-statement-tue-04142020-1447

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 is committed to assisting businesses with increased compliance requirements resulting from rapidly evolving legislation. Our goal is to help minimize your administrative burden across the entire spectrum of employment-related payroll, tax, HR and benefits, so that you can focus on running your business. This information is provided as a courtesy to assist in your understanding of the impact of certain regulatory requirements and should not be construed as tax or legal advice. Such information is by nature subject to revision and may not be the most current information available. ADP encourages readers to consult with appropriate legal and/or tax advisors. Please be advised that calls to and from ADP may be monitored or recorded.

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