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



Benefits

New York State Announces 2022 Paid Family Leave Employee Contribution Limits

On September 7, 2021, the New York Department of Family Leave (PFL) announced its 2022 contribution rates to the state paid family leave program.

Effective January 1, 2022:

- The employee contribution rate will remain at 0.511 percent.
- The maximum dollar contribution limit is \$423.71 for each employee, as compared to \$385.34 in 2021.
- Employees utilizing PFL benefits will receive up to 67 percent of the Statewide Average Weekly Wage (SAWW) of \$1,594.57.
- The maximum weekly benefit is \$1,068.36.
- Employees earning less than the SAWW will contribute less than the annual cap of \$423.71, consistent with their actual wages.
- The weekly taxable wage base for the family-leave insurance tax is to be the lesser of the employee's gross wages for the week or \$1,594.57.

In its announcement, the PFL also released a calculator (link below) as a tool for employees to use to view an estimate of their required deduction.

<https://paidfamilyleave.ny.gov/paid-family-leave-calculator2022>



Missouri Enacts Legislation Providing Leave to Victims of Domestic or Sexual Violence

On August 28, 2021, Missouri Governor Mike Parson signed into law the Victims Economic Safety and Security Act (VESSA), which provides leave to victims of domestic or sexual violence.

VESSA, which was effective as of the date of enactment (August 28, 2021), states as follows:

An employee who is a victim of domestic or sexual violence or a family or household member who is a victim of domestic or sexual violence whose interests are not adverse to the employee as it relates to the domestic or sexual violence may take unpaid leave from work to address such violence by:

- (1) Seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's family or household member;
- (2) Obtaining services from a victim services organization for the employee or the employee's family or household member;
- (3) Obtaining psychological or other counseling for the employee or the employee's family or household member;
- (4) Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic or sexual violence or to ensure economic security; or
- (5) Seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.

The amount of leave available is dependent on the size of the employer. Employers with one to 19 employees are not required to provide any leave. Employers of 20 to 49 employees must provide one week of unpaid leave, while employers of 50 or more employees must provide two weeks of unpaid leave.

Under VESSA, employers subject to the law are required to make reasonable safety accommodations, unless such accommodations would result in undue hardship for the employer. Such an accommodation must be made "in a timely manner" to the known limitations resulting from the domestic or sexual violence experiences of an employee or an employee's family or household member.

VESSA defines "family or household member" and "reasonable safety accommodation" as follows:

"Family or household member," for employees with a family or household member who is a victim of domestic or sexual violence, a spouse, parent, son, daughter, other person related by blood or by present or prior marriage, other person who shares a relationship through a son or daughter, and persons jointly residing in the same household.

"Reasonable safety accommodation," an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, implementation of a safety procedure, or assistance in documenting domestic violence that occurs at the workplace or in work-related settings, in response to actual or threatened domestic violence. Any exigent circumstances or danger facing the employee or his or her family or household member shall be considered in determining whether the accommodation is reasonable.

Additional key definitions under VESSA may be found at the following link:

<https://revisor.mo.gov/main/OneSection.aspx?section=285.625&bid=49909&hl=>

Other highlights of the new law include:

- Leave can be taken intermittently or on a reduced work schedule. However, unpaid leave under VESSA will not be provided if the employee has already used all leave allowed under the federal Family and Medical Leave Act.
- Employees must give 48 hours' notice of their intent to take leave.
- In the event of an unscheduled absence, the employer cannot take any action against the employee, if the employee provides certification of their absence within a reasonable time.
- An employer may require employees to provide certification in addition to 48 hours' notice. Employees may satisfy the certification requirement with a sworn statement from the employee plus certain other documentation — such as a police report or court record — detailed in VESSA.
- Upon returning from leave, an employee must be returned to the same or equivalent employment position.
- An employee must not lose accrued benefits while on leave.
- Employers must maintain health coverage for employees while they are on leave under VESSA.
- Employers may recover the health-plan premium paid by the employer to maintain coverage for the employee or the employee's family or household member, if the employee does not return to work for reasons unrelated to domestic or sexual violence.
- It is important to note that VESSA requires that employers must notify employees of their VESSA rights no later than October 27, 2021. Such notice may be provided electronically.
- After October 27, 2021, newly hired employees must receive notice of VESSA rights at the time that their employment begins.

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

<https://revisor.mo.gov/main/OneChapterRng.aspx?tb1=285.625%20to%20285.670>



Payroll

Minimum Wage to Increase in Minnesota, Effective January 1, 2022

On August 19, 2021, the Minnesota Department of Labor and Industry announced that the state minimum wage would increase effective January 1, 2022 as follows:

Large employers (those with annual gross sales of \$500,000 or more, exclusive of retail excise taxes):

- Increase from \$10.08 per hour to \$10.33 per hour.

Small Employers (those with annual gross sales of less than \$500,000, exclusive of retail excise taxes):

- Increase from \$8.21 per hour to \$8.42 per hour.

The 90-day training wage for workers under the age of 20, and the youth wage for workers under the age of 18, will also increase from \$8.21 per hour to \$8.42 per hour.

It is important to note that these state minimum wage rates will not apply to work performed in the city of Minneapolis and St. Paul, which has higher minimum-wage rates.

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

<https://www.dli.mn.gov/news/minimum-wage-increases-jan-1-2022>

Oklahoma Amends Annual Statement Requirements

The Oklahoma Tax Commission amended regulations providing that the written statement required to be provided to each employee annually (Form W-2), by an employer, must contain the last four digits of the employee's Social Security number shown in the format XXX-XX-1234 or ***-**-1234.

The amendments to Oklahoma Admin. Code §§ 710:90-1-10, 710:90-3-11 and 710:90-3-17 were effective on September 1, 2021.

Previously Oklahoma law stated in part as follows:

- (a) Every employer required to deduct and withhold Oklahoma tax from employee wages shall furnish the employee a written statement, each calendar year, showing ... (3) The Social Security number, if any, of the employee ...

South Carolina Extends Nexus Relief Through December 31, 2021, for Employees Telecommuting During COVID-19

It was recently reported that the South Carolina Department of Revenue (DOR) on April 7, 2021, via Information Letter No. 21-8, has again extended the tax relief regarding withholding and nexus for temporary teleworking employees due to the coronavirus (COVID-19) pandemic, through September 30, 2021.

The DOR has now, via Information Letter No. 21-22 dated August 25, 2021, extended the tax relief outlined below through December 31, 2021.

In the DOR initial announcement (South Carolina Information Letter No. 20-24, 08/26/2020), temporary relief was provided regarding a business's establishment of nexus because an employee is temporarily working in a different work location due to COVID-19, and guidance was provided with respect to employer withholding requirements for these employees. During the COVID-19 relief period, a South Carolina business's withholding requirements are not affected by the current shift of employees working on the employer's premises in South Carolina to teleworking from outside of South Carolina. Accordingly, the wages of nonresident employees temporarily working remotely in another state, instead of their South Carolina business location, are still subject to South Carolina withholding.

Additionally, an out-of-state business with employees working from home in South Carolina is not subject to South Carolina's withholding requirement solely due to the shift of employees working on the employer's premises outside of South Carolina to teleworking from South Carolina. Accordingly, the wages of a South Carolina resident employee temporarily working remotely from South Carolina instead of their normal out-of-state business location are not subject to South Carolina withholding, if the employer is withholding income taxes on behalf of the other state. DOR will not use changes solely in an employee's temporary work location due to the remote work requirements arising from, or during, the COVID-19 relief period as a basis for establishing nexus or altering apportionment of income.

Upcoming Minimum Wage Increase Reminder

The following list includes a state where the minimum wage will increase, as of September 30, 2021. It is important to note that rates that may be paid in certain cases to individuals under a certain age (e.g., youth wage), or to employees during a "training" period are not reflected.

Jurisdiction	September 30, 2021 Minimum Wage Per Hour
Florida	\$10.00 per hour (currently \$8.65). The minimum cash wage for tipped employees will be \$6.98 per hour (currently \$5.63).

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.

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