One Minute Memo®

New York State Paid Family Leave - Tax Guidance Issued

By Gena Usenheimer and Meredith-Anne Berger

Seyfarth Synopsis: *The New York State Department of Taxation and Finance recently issued guidance on the tax treatment of New York State Paid Family Leave employee contributions and the PFL benefit. The guidance directs that payroll deductions should be taken on a post-tax basis and the benefits are non-wage income reportable on an IRS Form 1099.*

New York State's Paid Family Leave ("PFL") law is effective January 1, 2018. For more specifics as to the law and its requirements see our prior alerts here, here, here, here, and here.

Recently, the New York State Department of Taxation and Finance issued guidance on the tax treatment of employee contributions towards the cost of PFL premiums as funded through payroll deductions, as well as on the tax treatment of the PFL benefit itself. The following is a summary of the State's guidance.

Tax Treatment Of Employee Contributions

Employee contributions are appropriately deducted from employees' after-tax wages.

Employers should report employee contributions on an IRS Form W-2 using Box 14, which may be used to report information such as state disability insurance taxes withheld.

Tax Treatment of PFL Benefit

Benefits paid to employees (either by the third-party insurance carrier or by the self-insured employer) will be taxable non-wage income that must be included in federal gross income. The guidance advises that while taxes will not automatically be withheld from benefits, employees can request voluntary tax withholding.

Further, benefits should be reported by the State Insurance Fund on Form 1099-G and by all other payers (such as third party insurance companies or the self-insured employer) on Form 1099-MISC.

In light of the upcoming January 1 effective date, employers should be taking steps to comply with the law's various requirements, as discussed in our prior alerts and recent webinar.

If you would like additional information, please contact Gena Usenheimer at gusenheimer@seyfarth.com, or Meredith-Anne Berger at mberger@seyfarth.com.

Seyfarth Shaw LLP One Minute Memo® | August 29, 2017