

One Minute Memo®



Hot Off The Presses: Massachusetts DFML Just Announced Extension Of May 31st Notice Deadline And June 30th Exemption Application Deadline

By Daniel B. Klein, Ariel D. Cudkowicz, Molly Mooney, and Christina Duszlak

Seyfarth Synopsis: In response to feedback from the public listening sessions held around the Commonwealth, as well as engagement efforts, the Massachusetts Department of Family and Medical Leave (DFML) announced several important changes this afternoon, including a one-month extension of the deadline for distributing the mandatory PFML notices to employees from May 31, 2019 to June 30, 2019.

Deadline For Employer Notice To Employees Extended To June 30, 2019

The DFML extended the deadline for employer notice to employees from May 31 to June 30, 2019. Because the notice must include the proportion of the contributions being deducted from employees as of July 1, 2019 and whether the employer will apply for an approved private plan, this extension provides employers another month to evaluate and finalize those decisions.

Exemption Application Deadline Extended For Quarter 1 To September 20, 2019

The DFML's current guidance requires that exemptions for private plans be approved in the quarter prior to the quarter in which they will go into effect. The DFML announced today that for Quarter 1 only (July – September 2019), however, the deadline to file for a private plan exemption in time to avoid first quarter contributions for PFML has been moved from June 30 to September 20, 2019. This will allow employers additional time to contemplate private plan options.

The September 20, 2019 extension of the exemption application deadline only impacts the contribution requirements if the exemption request is approved. If the exemption request is denied, the impacted business will be responsible for remitting the full contribution amount from July 1, 2019 forward. Therefore, the DFML is recommending that businesses in the Commonwealth consult with their tax advisors as to the implications associated with applying for a private plan exemption that may or may not be approved.

Going forward, the DFML will continue to accept applications on a rolling basis, but applications must be approved in the quarter prior to the quarter in which they go into effect.

Tax Treatment Addressed Preliminarily By DFML

In the same announcement, the DFML addressed, for the first time, the tax treatment of PFML contributions and benefits. The DFML announced that the Commonwealth has requested guidance from the Internal Revenue Service on this question and others related to the tax implications of PFML contributions and benefits. Until IRS guidance is issued, individuals and businesses are urged by the DFML to consult with their own tax advisors on these questions. Based on its own review of federal rules and following consultation with the Massachusetts Department of Revenue, the DFML states that it anticipates that the IRS will conclude that employee contributions should be withheld from *after-tax wages*. A definitive rule for proper tax treatment of contributions will be available once IRS guidance is issued.

Finally, the DFML also announced that it is planning to host two additional listening sessions for comments on the proposed regulations in May, which will be announced shortly.

Because employers now have until June 30th to distribute mandatory written PFML notices to employees, employers will have an additional month to finalize decisions regarding the proportion of the contributions being deducted from employees as of July 1, 2019 and whether the employer will apply for an approved private plan. For our prior reports on the PFML Law and the proposed regulations, you may refer [here](#), [here](#), [here](#), [here](#), and [here](#).

If you would like further information, please contact [Daniel B. Klein](mailto:dklein@seyfarth.com) at dklein@seyfarth.com, [Ariel D. Cudkowicz](mailto:acudkowitz@seyfarth.com) at acudkowitz@seyfarth.com, [Molly Mooney](mailto:mmooney@seyfarth.com) at mmooney@seyfarth.com, or [Christina Duszlak](mailto:cduszlak@seyfarth.com) at cduszlak@seyfarth.com.

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