



SECTION 27, PMFL, EMAC

Background, FAQ's, Action Items

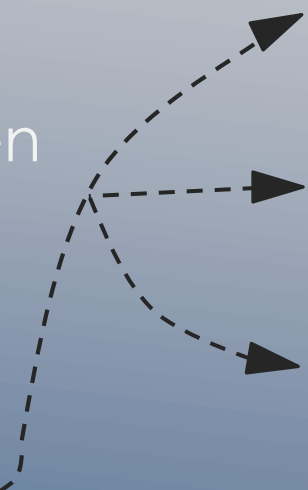
WHO WE ARE

- ▶ Larry Drago Owner/President BizChecks Payroll Inc.
- ▶ Chair of Cape Cod Chamber of Commerce
- ▶ BizChecks works with over 900 local businesses on Cape and South Shore
- ▶ Founded in 2003, BizChecks provides Payroll, HR, Time and Attendance and Tax Solutions for businesses with 1 to 300 employees

WORKSHOP AGENDA

1. Section 27- The Grand Bargain
2. Paid Family Leave
3. EMAC Update

WHAT IS THE GRAND BARGAIN?

- ▶ Passed in July of 2018 the “Grand Bargain” was a compromise reached between Ballot Advocates and the Legislature
 - ▶ Grand Bargain addressed 3 ballot questions.
1. Minimum wage
 2. Paid Family Leave
 3. Sales tax
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SECTION 27

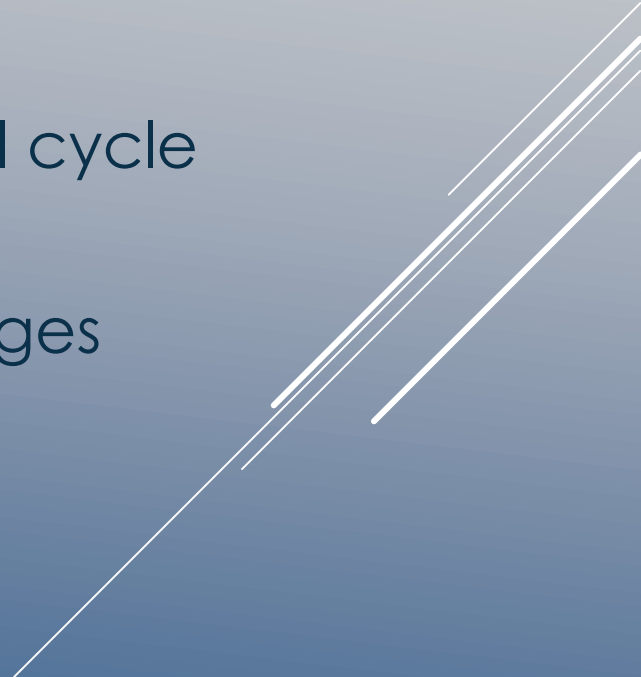
- ▶ Grand Bargain increases minimum wage to \$12 per hour for 2019 and \$4.35 per hour for tipped employees.
- ▶ Increase in minimum wage will be phased in over next 5 years to \$15 per hour and \$6.75 per hour for tipped employees.
- ▶ Historically, employers required to ensure tipped employees earn at least minimum wage (service rate + cash/credit card tips) each pay period.
- ▶ Section 27 requires that employers make sure tipped employees earn at least minimum wage each shift.

EXAMPLE

- ▶ Server works 5 hour shift on Tuesday and 5 hour shift on Saturday
- ▶ On Tuesday, server earns \$21.75 in service rate and \$20 in tips for a total of \$41.75
- ▶ New law requires that server be paid \$60 for the shift (5 hours worked, paid at \$12/hr)
- ▶ Restaurant must pay server additional \$18.25 in the next regular pay check to cover the differential



PENALTY FOR NON-COMPLIANCE

- ▶ Restaurants will need to calculate additional \$ due for each shift
 - ▶ Additional \$ need to be paid out in regular payroll cycle
 - ▶ Penalty assessed could be treble entire weeks wages
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MASSACHUSETTS PAID FAMILY & MEDICAL LEAVE

- ▶ Passed in July 2018 as part of “Act Relative to Minimum Wage, Family Medical Leave and the Sale Tax Holiday.
- ▶ Funded by Employer and Employee contributions paid to state trust fund or by approved private plan.
- ▶ Contributions begin July 1, 2019....Claims begin January 1, 2021
- ▶ Draft regulations issued January 23....Final regulations by March 31.

SUMMARY OF PFML

Medical Leave

- ▶ Medical Leave can last up to 20 weeks
- ▶ Intended for an employee to deal with a serious medical condition

Active Duty Leave

- ▶ Family leave for covered service member up to 26 weeks
- ▶ Individuals may be entitled to up to 26 weeks in a benefit year to care for a family service member with a serious health condition

Family Leave

- ▶ Family Leave up to 12 weeks
- ▶ Intended for an employee to: care for family member with serious health condition, birth, adoption, or foster care placement of a child.

CONTRIBUTIONS

25 or more Employees

- ▶ Employer averaging 25 or more employees over the course of prior year:
- ▶ The contribution is .63% of all wages up to fica threshold (\$132,900)
- ▶ Allocation of rate will be determined each year
 - ▶ Year 1 allocation = .52% medical .11% family
- ▶ Employers may deduct 40% of medical and 100% of family from Employee wages

Under 25 Employees

- ▶ Employer averaging fewer than 25 employees over the course of prior year, shall not be required to pay the employer portion of the premium
- ▶ Contributions must be remitted on a quarterly basis along with a wage report through Mass Tax Connect

THE MATH

If a company does \$1,000,000 for payroll in a year what will the PFML contribution be?

$$\$1,000,000 \times .63\% = \$6,300 \text{ PMFL Contribution}$$

Distribution between funds:

$$\text{Medical Leave allocation } .52\% = \$5,200$$

$$\text{Family Leave } .11\% = \$1,100$$

Do you have 25 or more employees? If so, here is the breakdown.

			EE	ER
Medical Leave	.52% = \$5,200	→ 40% deducted from employee	= \$2,080	= \$3,120
Family Leave	.11% = \$1,100	→ 100% deducted from employee	= \$1,100	= \$0
			= \$3,180	= \$3,120
			∨	
			= \$6,300	

EMPLOYEE CONTRIBUTION

- ▶ If an employee is paid a weekly salary of \$500 gross wages and claiming Single 0, the PFML deduction will be:

\$500 Gross minus taxes:

\$390.93 Net

(6.2%) \$31 Social Security
(1.45%) \$7.25 Medicare
\$47.50 Federal
\$23.32 State



.11% to family = .55
40% of .52% to medical = \$1.04

- ▶ In this example the PFML deduction totals to \$1.59

COVERED BUSINESS ENTITY & CONTRACT WORKER

- ▶ “Covered business entity”, a business or trade that contracts with self-employed individuals for services and is required to report the payment for services to such individuals on IRS Form 1099-MISC for more than 50 per cent of its workforce.
- ▶ “Covered contract worker”, a self-employed individual for whom an employer or covered business entity is: (i) required to report payment for services on IRS Form 1099-MISC; and (ii) required to remit contributions to the Family and Employment Security Trust Fund pursuant to the requirements of section 6 of M.G.L. c. 175M.

TREATMENT OF COVERED BUSINESS ENTITIES & COVERED CONTRACT WORKERS

- ▶ A business or trade shall annually determine if it is a covered business entity by the following method:
 - (1) The business or trade shall count the total number of self-employed individuals with whom the business or trade contracted for services during each pay period in the previous calendar year and was required to report the payment for such services on IRS Form 1099-MISC.
 - (2) The business or trade shall then calculate its total workforce by adding the number of self-employed individuals counted in subsection (1) to the total number of employees, including full time, part-time, and season employees, that the business or trade employed during each pay period in the previous calendar year.
 - (3) If the number calculated in subsection (1) is greater than 50 per cent of the number calculated in subsection (2), then, for the following calendar year, the business or trade is a covered business entity, and the self-employed individuals who contract with the trade or business are covered contract workers.

PRIVATE PLAN OPTIONS

Employers already providing paid leave benefits to their workforce may be eligible to receive an exemption from collecting, remitting, and paying contributions by applying through the Department of Family and Medical Leave's website beginning April 29.


The benefits offered to your employees by your approved plan must be greater than or equal to the benefits provided by the PFML law to be granted an exemption

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GUIDELINES

- ▶ A private plan cannot impose additional conditions or restrictions on the use of family or medical leave beyond those allowed under PFML
- ▶ A private plan can have employee contributions but the cost to employees covered by a private plan shall not be greater than the cost charged to employees under the state program.
- ▶ In order to be approved as meeting an employer's obligations, a private plan must also comply with the following:
 - (i) if the private plan is in the form of self-insurance, the employer must furnish a bond running to the state, with some surety company authorized to transact business in the commonwealth as surety, in such form as may be approved by the department and in such amount as may be required by the department;
 - (ii) The plan must provide for all eligible employees throughout their period of employment; and
 - (iii) If the plan provides for insurance, the forms of the policy must be issued by an approved insurer

CURRENT CHALLENGES

- ▶ At the moment, no carriers are offering a private plan option since the regulations have not been finalized.
 - ▶ If there are no private plan options prior to July 1, 2019 the employer will either have to commit to the state plan option or self fund a private plan option and post a bond.
 - ▶ The state hopes to have an online application available for a self funding private plan option in April.
 - ▶ The state hopes to provide 24 hour turn around time for applications and allow appeals of denied applications as well.
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JOB PROTECTION

- ▶ All Employees must be restored to previous or equivalent position.
 - ▶ Employees must be restored to same level of status, pay, employment benefits, and seniority as of date of leave.
 - ▶ Leave shall not impact an employees right to accrue vacation time, sick leave, bonuses, advancement, seniority and other benefits.
 - ▶ Employer must continue to make the employer contribution for employment related health insurance benefits.
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HOW MUCH DOES PFML PAY TO AN EMPLOYEE?

A covered individual shall receive a weekly benefit amount. The weekly benefit amount for employees will be determined as follows:

- (i) the portion of an employee's average weekly wage that is equal to or less than 50% of the state average weekly wage shall be replaced at a rate of 80%

- (i) the portion of an employees average weekly wage that is more than 50% of the state average weekly wage shall be replaced at a rate of 50%

The maximum weekly benefit shall not amount to more than \$850 per week

PENALTIES FOR NON-COMPLIANCE

“An employer or covered business entity who fails or refuses to make required contributions shall be assessed .63 percent of its total payroll for each year it failed to comply in addition to the TOTAL AMOUNT OF THE BENEFITS PAID”.

- PFML Draft Section xx.06 (5)(d)




This could result in over \$22,000 PER employee

QUESTIONS TO ASK YOUR PAYROLL COMPANY

- ▶ Will the payroll service automatically create the employee deduction based on the maximum amounts in the regulations or will they look for guidance from you?
- ▶ Will your payroll company do the prior year look back to determine your workforce count?
- ▶ How will the payroll company handle the 50% calculation for covered business entities?
- ▶ Confirm with them that they will file the quarterly wage report (including 1099's) and remit the contributions through Mass Tax Connect
- ▶ Will they have reporting in place to track PMFL leave beginning in 2021?

RESOURCES

- ▶ Click [here](#) to be directed to the Department of Family and Medical Leave (DFML)
 - ▶ Click [here](#) for the mandatory workplace poster
 - ▶ Contact DFML: Email MassPFML@Mass.gov
 - ▶ Click [here](#) for all the downloadable resources DFML provides
 - ▶ Click [here](#) for Bill S.1060 by Vinny deMacedo
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STAY TUNED

- ▶ Role of 1099's in workforce count and contributions
- ▶ Exemption of Replacement Employee wages in determining DUA rate
- ▶ Request for information deadline
- ▶ Stacking of PTO/Sick time
- ▶ Treatment of J1's
- ▶ Qualification of private plans
- ▶ Details on Employer health obligations
- ▶ Potential for an employee to work another job while on leave

The newest version of the draft was released March 31, 2019 and is subject to a 60 day comment period

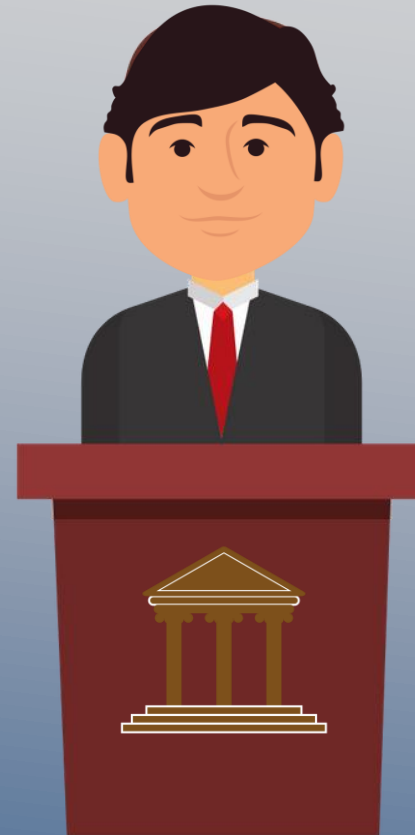
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EMAC UPDATE


- ▶ Emergency Medical Assistance Supplement applies to employers with more than 5 employees averaged over the course of the quarter.
 - ▶ Employer must contribute 5% of wages up to \$750 per employee for any non disabled employee who obtains health insurance from MassHealth or subsidized coverage through Mass Connector
 - ▶ Nearly \$500,000,000 collected in EMAC 'contributions' in 2018
 - ▶ 50,000 Massachusetts businesses impacted
 - ▶ EMAC scheduled to sunset after 2019, but will it?
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WHAT IS NEXT?

- ▶ Elimination of tipped wage?
- ▶ Mandated employee scheduling?
- ▶ Mandated paid vacation time?



WHAT IS NEXT EXPLAINED

- ▶ There are Federal efforts being made called “Raise the Wage Act” would phase out tipped wage supported by Joe Kennedy.
 - ▶ Ayanna Pressley introduced the “Be Heard Act” aimed at bolstering protection for lower wage and entry level workers. Bill also calls for elimination of tipped wage. In Massachusetts, Rep. Tricia Farley-Bouvier has introduced similar legislation
 - ▶ Senator Marc Pacheco has introduced legislation in Massachusetts to mandate publication of employee schedules two weeks in advance. Bill provides premium pay to employees if schedule changes and 1.5 for any clopener shifts.
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HOW CAN YOU HELP?

1. Join your local and regional Chamber of Commerce
2. Work with fellow local businesses who are involved and educated on these matters
3. Voice your concerns to state representatives
4. Attend listening sessions and stay up-to-date
5. Ask questions



Thank you!



www.BizChecksPayroll.com

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