

February 14, 2023

# Alternative Work Location & State Issues



# Outside Tax Counsel

- ▶ Engaged Littler Mendelson P.C.
  - Guidance on state Paid Family Medical Leave (PFML)
    - TEEEX received penalty notice from Massachusetts for noncompliance with PFML
    - Generally, requires employer contribution and employee deduction.
    - Exception – Less than 25 employees then only employee deduction required.
  - States with conflicts with Texas law.
    - Specifically, California and Colorado.

# Out of State Employment Issues

- ▶ Labor laws of other states can conflict with Texas laws
  - Generous leave policies
  - Paid Family Medical Leave – Employer and employee contributions are considered a tax.
    - Varies with each state
    - Currently 11 states and Washington D.C. have a form of PFML.
      - California, Colorado, Connecticut, Delaware, Massachusetts, Maryland, New Jersey, New York, Oregon, Rhode Island, Washington and Washington D.C.

# Out of State Employment Issues cont.

## ▶ Texas State Comptroller Guidance

### **State and Local Income Tax Withholding**

State employees who live or work outside of Texas may be subject to state or local income taxes in addition to federal income taxes. Most states have state personal income taxes. Many localities also have income taxes that require withholding.

For example, a Comptroller's office employee working in the Oklahoma area is subject to Oklahoma state income tax, as well as local taxes where required.

State agencies must comply with applicable tax laws and ordinances for each state or municipality where their employees work. To do this, a state agency must establish itself as an employer with the state or local tax authority and calculate and remit taxes appropriately.

For more information on state and local taxes, contact the appropriate state or local taxing authority. Contact information for taxing authorities in a particular state is often listed on the state's website.

[https://fm.x.cpa.texas.gov/fm/pubs/paypol/tax\\_information/index.php?section=withholding&page=withholding](https://fm.x.cpa.texas.gov/fm/pubs/paypol/tax_information/index.php?section=withholding&page=withholding)

### **Texas Government Code**

Sec. 651.002. BENEFITS OF AND RESTRICTIONS ON STATE EMPLOYEES WORKING OUT OF STATE. A state employee who is required to work outside of this state is entitled to the same benefits and is subject to the same restrictions provided by law for other state employees, including vacation, leave from employment, and the employment policies and restrictions provided by the General Appropriations Act.

# States with PFML

- ▶ Generally, in addition to tax withholding, requires employer action such as when an employee files for PFML.
  - ❖ California - <https://edd.ca.gov/en/disability/paid-family-leave/>
    - Employee only deductions
  - ❖ Colorado – FAML I <https://famli.colorado.gov/> (Effective 01/01/2023)
    - Less than 9 employees – only employee deductions
  - ❖ Connecticut - [https://ctpaidleave.org/s/?language=en\\_US](https://ctpaidleave.org/s/?language=en_US)
  - ❖ Delaware - (Effective 01/01/2025)
    - [Littler Article on Delaware](#)
  - ❖ Massachusetts - <https://www.mass.gov/topics/paid-family-and-medical-leave-in-massachusetts>
  - ❖ Maryland – (Effective 10/01/2023 with rates to be determined by June 1, 2023)
    - [Littler Article on Maryland](#)

# States with PFML cont.

- ❖ **New Jersey** – <https://nj.gov/labor/myleavebenefits/>
  - Temporary Disability and Family Leave Insurance
    - TDI – Employer contribution & has wage caps.
    - FLI – Employee only deduction & has wage caps
- ❖ **New York** – <https://paidfamilyleave.ny.gov/>
  - Public employers appear to be exempt. <https://paidfamilyleave.ny.gov/public-employers>
- ❖ **Oregon** – <https://paidleave.oregon.gov/Pages/default.aspx>
  - Employees and Employers pay into the program if 25 or more employee. Less than 25 then employees only contribute
- ❖ **Rhode Island** – <https://dlt.ri.gov/individuals/temporary-disability-caregiver-insurance>
  - Temporary Disability Insurance (TDI) & Temporary Caregiver Insurance (TCI)
  - **Note on other possible tax issues – there is an employer responsibility for paying an employment security and job development taxes.**
- ❖ **Washington** – <https://paidleave.wa.gov/>
  - Employee and Employer contributions for 50 or more employees. If less than 50 employees then employee contribution only.
- ❖ **Washington D.C.** – <https://dcpaidfamilyleave.dc.gov/>
  - Employer Contribution
  - State exemption?? Section 3199.1 “Covered employer” (a).

## ▶ **Workday Compliance**

# Alternative Work Location

- ▶ Comply with tax laws of each state
- ▶ Comply with labor and benefits up to the maximum Texas law allows us.
- ▶ Work with your CFO and HRO.
- ▶ OGC contacts: Jan Faber and Lynda Cook

# QUESTIONS?

