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Employment Law Bulletin

May 2016

Piece Rate Safe Harbor Deadlines Are Approaching

A major Piece Rate Pay law was enacted in California effective January 1, 2016. (See Labor Code section 226.2) For employers paying any employees on a piece rate basis, there are substantial new payment, paystub and recordkeeping requirements that are already effective. Failure to follow these comprehensive and complex new rules can result in serious wage/hour liability. If you currently pay any employees on a piece rate basis in California, this law applies to your workplace. If you have not already done so, steps should be taken immediately to ensure legal compliance.

For any employers who paid employees on a piece rate basis at any time from July 1, 2012 through December 31, 2015, the law contains a Safe Harbor provision that allows employers to calculate past due pay related to the new piece rate law and make those payments within a specified timeframe. Following the Safe Harbor provision provides employers a defense against a claim for recovery of wages, damages, liquidated damages, statutory penalties and civil penalties based on the employer's failure to previously pay compensation for rest and recovery time and other non-productive time while employees were engaged in piece rate work. This Safe Harbor protection is only available if the employer timely files notice of intent to pay piece rate back pay under the Safe Harbor. The notice must be filed no later than July 1, 2016, and all payments must be calculated and paid no later than December 15, 2016.

General information is available at
http://dir.ca.gov/pieceratebackpayelection/AB_1513_FACT_SHEET.htm.

Please feel free to contact us if you have questions about whether this complex new law applies to you, or if you need help in complying with the law.

New Paid Parental Leave Ordinance for Employees Working in San Francisco

The City of San Francisco recently passed the Paid Parental Leave Ordinance requiring Covered Employers to supplement the paid family leave insurance benefits Covered Employees receive from the State when they take leave to bond with a new child.

Covered Employees

A "Covered Employee" entitled to "Supplemental Compensation" is an employee: (1) who began employment with a "Covered Employer" at least 180 days prior to the start of the leave period; (2) who performs at least 8 hours of work per week for the employer in San Francisco; (3) at least 40% of whose total weekly hours worked for the employer are in San Francisco; and (4) who is eligible to receive paid family leave insurance benefits for the purpose of bonding with a new child. Note that the new law benefits Covered Employees even if their employer is located outside of San Francisco.

Covered Employers

The law becomes effective in waves based on employer size: employers with 50 or more employees must begin compliance on January 1, 2017, followed by employers of 35-49 employees on July 1, 2017, and employers of 20-34 employees on January 1, 2018.

Supplemental Compensation

During the parental leave period, Covered Employers must pay the employee supplemental compensation in an amount such that the California Paid Family Leave Insurance benefits plus the supplemental compensation equals 100% of the employee's normal gross weekly wage. Based on California's current 55% wage replacement rate, the ordinance requires employers to pay the remaining 45% of the employee's weekly wages during the 6-week leave period, subject to the limitation described below.

Maximum Weekly Benefit Limitation

The California Paid Family Leave insurance program places a cap on the weekly benefit amount for higher-earning workers. As of January 1, 2016, the "maximum weekly benefit amount" is \$1,129 for employees with an annual salary of approximately \$106,740. Employees who earn more than \$106,740 per year therefore do not receive the full 55% of their salary under the State program.

An employer's supplemental contribution obligation under the ordinance is proportionally capped by reference to the maximum weekly benefit amount. Using the 2016 rates, an employer's maximum weekly Supplemental Compensation amount under the ordinance would be \$924 per week (45% of \$1,129).

If you're not sure whether this law applies to your employees, feel free to give us a call.

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