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PAYROLL & HR

# The Light in The Tunnel: What Employers Need to Pay Attention to in 2024

January 23, 2024



Welcome

“The light at the end of  
the tunnel is just the light  
of an oncoming train.”

- Robert Lowell, Boston Poet



# Goals for Today's Session

What's Happening: What topics you need to focus on and why?

To Educate: What do you need to know and how will it affect your business?

Actionable Items: What can I do about it? What should I do about it?

Is that an oncoming train, or simply the other end of the tunnel?

# Our Panel



**Jeff Plakans**  
President  
Commonwealth  
Payroll & HR



**Michelle Ferero**  
Partner  
P&C Consulting



**Mark Alaimo**  
Managing Shareholder  
LCW Certified Public  
Accountants



**Al Gray**  
Founder  
Law Office of Alfred A. Gray



**Rebecca F. Alperin**  
Member  
MORSE

# Question of the Day for our Panelists

*Have you ever had an “I can’t believe this is part of my job” moment? Care to share?*



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**Al Gray**  
Founder



# 2024 Employment Law Update

# About Al...

- A seasoned management side labor and employment attorney.
- Experience working for state government as well as large private law firms such as
  - Rubin and Rudman LLP
  - Bowditch & Dewey
  - Greenberg Traurig
- Currently in solo practice concentrating on all aspects of employment law as well as labor law representing management clients in the following areas:
  - Litigation
  - Federal and State administrative proceedings
  - Wage and hour
  - NLRB matters
  - Non-compete and restrictive covenants
- Established practice in the human services arena
- Represents families seeking adult or special education placement and services as well as school discipline matters.



# Changes To Overtime Thresholds

- Former Boston Mayor and Former U.S. Secretary of Labor Marty Walsh proclaimed two plus years ago that the minimum salary to qualify for executive, professional and administrative exemptions for overtime was too low.
- Per Biden/Harris Administration, change is needed to restore economic security and extend overtime protections to an estimated 3.6 million salaried workers



# Changes To Overtime Thresholds

- DOL has proposed changing the OT thresholds to:
  - Current salary rate of \$684 per week or \$35,568 per year
  - Proposed salary rate of \$1,059.00 per week or \$55,068.00 per year
  - Result being that if below these salary thresholds, individuals could be entitled to receive overtime pay for working in excess of 40 hours
- Highly Compensated Individuals
  - DOL is also proposing that the definition of highly compensated employees be increased from \$107,432 per year to \$143,988 per year
- Further proposed that the thresholds be increased every three years to reflect current earnings data



# Changes To Overtime Thresholds

- Positives from proposed rule
  - More executive, administrative and professional employees will be entitled to receive overtime pay
  - Appropriate compensation for long hours worked which deprive employees from their families or other obligations
- Negatives from proposed rule
  - Extra cost to employers



# Pay Transparency Law

- Via the Massachusetts Equal Pay Act it is already prohibited to ask applicants what their current salary is or their salary history
- The Transparency law goes further
- Current legislative proposal that will require employers to disclose salary ranges in job postings whether internal, external or via third party
  - Applies to all employers with 25 or more employees
  - Includes out of state employers who have more than 25 employees working within the Commonwealth
  - Would also require disclosure for employees seeking promotions and transfers
- Employers with over 100 employees would also be required to provide wage data to the Commonwealth
  - Not certain as of yet as to what needs to be reported



# Pay Transparency Law

What are surrounding New England states doing with regard to pay transparency provisions?

- New York City, Westchester County, and Ithaca passed such provisions in 2022
- The state of New York law became effective September 17, 2023
  - Applies to employers with four or more employees
- Connecticut
  - Provide wage range if the employee requests it during application stage
  - Must provide salary information at hire, change in position or upon request
- Rhode Island
  - No posting requirement. Provide salary information upon request or at hire or moving into a new position
- Nothing known as of yet in New Hampshire, Maine and Vermont



# Proposed Independent Contractor Rule

- Biden administration has proposed new independent contractor rule which will have huge consequences if ultimately approved
  - Scheduled to take effect March 2024
- Rule addresses on-going debate on whether certain classes of individuals are employees or independent contractors
- Requires that workers be considered employees entitled to more benefits and legal protections than contractors when they are "economically dependent" on a company



# Proposed Independent Contractor Rule

- Significant impact on app-based services that rely heavily on contract workers such as Uber, Lyft and DoorDash
- Proposed rule replaces a Trump administration regulation that said workers who own their own businesses or have the ability to work for competing companies, such as a driver for Uber and Lyft, can be treated as contractors
  - Employers traditionally classified such individuals as independent contractors
  - Most app service individuals do NOT want to be employees
    - May desire certain benefits but do not want to be deemed an employee of the company



# Proposed Independent Contractor Rule



- Challenges to be expected
- 4 Georgia freelance writers and editors have already filed litigation claiming the new proposed rule is unconstitutional
- Uber, Lyft and DoorDash have in the past spent hundreds of thousands of dollars to maintain the status quo
  - Expect they will do it again
- Stay tuned to see what happens next



# Non-compete Agreements

- Common Question – Are non-compete agreements enforceable?
  - Researching the question was surprised that only four states have outright prohibited non-compete agreements
    - California
    - South Dakota
    - Oklahoma
    - Minnesota (as of July 1, 2023)
- On paper Massachusetts permits non-competes but do the requirements and standards to be enforceable actually make it difficult to be permitted where the effect is that MA non-competes are by design disappearing



# Non-compete Agreements

- Massachusetts requires amongst other things a non-compete to contain certain language in order for it to even remotely be considered enforceable
  - Agreement must be clear containing plain language
  - Employee must specifically be advised of right to seek counsel
  - Employee must be paid at least fifty percent of his/her salary during the restrictive non-compete period
    - Example – Employee making \$100,000 per year is let go and a non-compete agreement says will not work for a competitor for one year. Must pay that employee \$50,000.00 for non-compete provision to be enforceable
    - Most employers will NOT pay this
    - Effect – non-competes are disappearing in Massachusetts



# Non-compete Agreements

## Other New England States

- Connecticut
  - Permitted with standard of fairness of protection to employer versus extent of restraint on employee. Look to extent of interference with public interest
- Maine
  - No broader than necessary to protect employer's legitimate business interest. No undue hardship to employee
- New Hampshire
  - Same as Maine with addition that provisions cannot be injurious to public interest
- New York
  - Similar to New Hampshire
- Vermont
  - Same as above



# Social Justice Attire At Work

Appropriate for the workplace?



# Social Justice Attire At Work

- Are such t-shirts acceptable at work?
- With world events such attire may be popular for employees depending upon the workplace
- Things to consider
  - What does your handbook say
    - Ban ALL social justice and political attire
    - Does the attire create a hostile environment
    - Does the underlying meaning of what is depicted matter
      - Palestine organization – annihilate Israelis
      - BLM organization – equal justice for all
        - Does the difference in purpose matter
  - How to approach employees





Questions Will Be Addressed During  
The Q&A, Please Submit via the  
“Questions” Field



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**Michelle Ferero**  
Partner

**P&C Consulting**  
People and Culture Experts

# Employee Work Flexibility

# About Michelle...

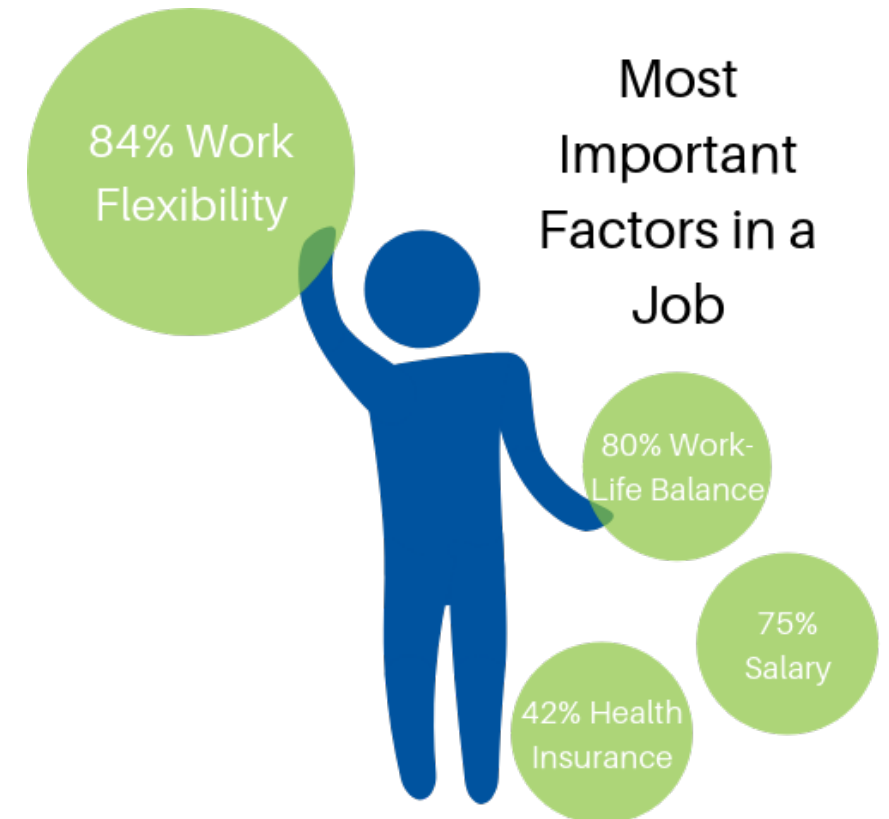


- Over two decades of experience as a highly accomplished HR executive dedicated to assisting businesses with strategic people solutions.
- Extensive experience in talent management and organizational development, operating at both the national and international level.
- Prior to joining P&C Consulting, served as the Senior Vice President of Corporate Human Resources at Hitachi Cable America and held key leadership roles at Methuen Construction (an MWH Company), the Consigli Building Group, and the Middlesex District Attorney's Office.
- A SHRM Senior Certified Professional in Human Resources, a certified paralegal and hold a Master's Degree in Human Resources Management along with various other specialty HR certifications.

# What is it?

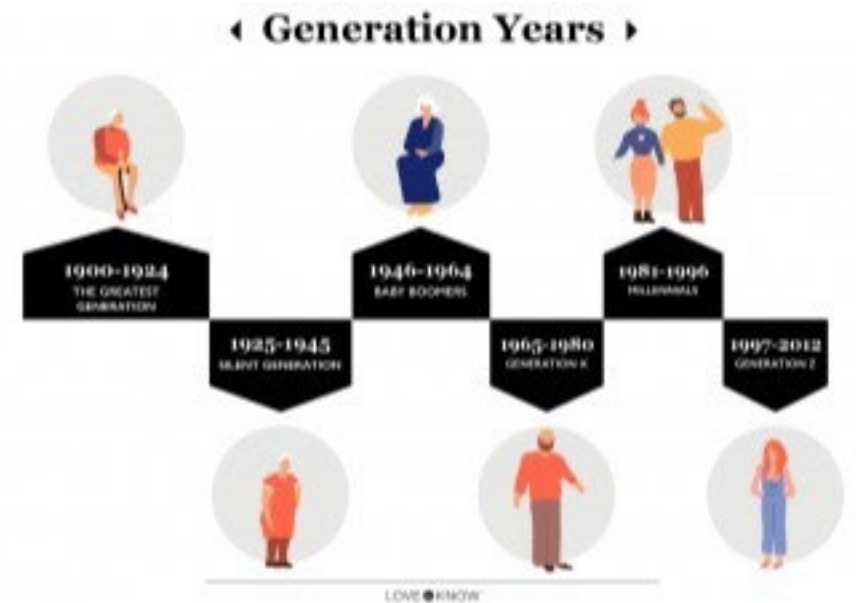
- When the employer provides some level of freedom to its employees to choose the time (when), location (where), and/or the manner (how) in which they work to help align organizational goals with individual employee goals.
- Does not only mean remote or hybrid work!
  - Examples:
    - 4/10 Work Schedule
    - Nontraditional Work Hours
    - Swing Shifts
    - Hybrid or remote schedule
    - Job Sharing

***Any creative ways to avoid the “one fits all” mentality at work***



# Why this is so important?

- Shift in workplace dynamics
  - Pre-pandemic: Limited work flexibility, handled case-by-case, if at all
  - Post-pandemic: Employees gain bargaining power and reevaluate their priorities
- 2024 - Gen Z is expected to overtake baby boomers in the workplace
- Work flexibility is a non-negotiable for Gen Z (Fiverr survey)
  - Value flexible jobs that enable a healthy work-life balance
  - They also overwhelmingly prefer in-person work interaction
  - 76% surveyed can complete current workload in a 4-day week



# Benefits of Flexibility

- **Boosted Productivity:** 60% increase in overall productivity, as reported by HR leaders.
- **Recruitment & Retention Excellence:** Achieved enhanced recruiting outcomes and improved engagement and retention rates.
- **Cultural Differentiation:** Distinguishes organizations that are People First vs. Revenue First. Predictor to becoming a true Employer of Choice
- **Employee Motivation & Engagement:** 2023 study found that 78% said that flexible work allows them to live a healthier life & 86% are less stressed



# Implementing & Maintaining Flexibility

- Conduct a thorough assessment of all the jobs in your workplace to figure out which ones are feasible for what kinds of flexibility
- Partner w/ HR from the onset: surveys, discussions, and meetings get your employees' input
- Get creative with the traditionally on-site/brick-and-mortar industries
  - 4/10 Work Schedule
  - Nontraditional Work Hours
  - Swing Shifts
  - Hybrid or remote schedule
  - Job Sharing
- Leadership engagement and adaptability crucial



***Flexibility is an ongoing journey, not a quick fix!***

# Key Takeaways

**Before you consider work flexibility or any other people/culture initiative, ask yourself this:**

***What do you want your Employer Brand to be?***

- Important to know and stay true to. There is no such thing as a right or wrong Employer Brand....but it always exists!
- Employer Brand is tied to workplace culture and affects all people-related decisions, including whether work flexibility is suitable for your org



# Key Takeaways

## So you're ready for a flexible work environment? Here's how to start-

- Make sure your leaders are set up for success before anything is implemented
  - Do they know how to engage in regular and open dialogue with their team members?
  - Do they have regular 1:1s to provide and receive feedback?
- Ask your employees what flexibility means to them!
  - Humans love to feel heard, especially in the workplace
  - You might be surprised how realistic their suggestions may be!
- Don't be afraid to pivot if something isn't working! Be transparent about why it is not working and try a different approach.





Questions Will Be Addressed During  
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“Questions” Field



**Rebecca F. Alperin**  
Member



# 2024 Employee Benefits Update

# About Rebecca...



- Rebecca heads up the Employee Benefits and ERISA practice.
- She works closely with human resource professionals, C-suite executives and plan fiduciaries across all industries on all aspects of employee benefits and ERISA.
- Rebecca's practice focuses on the primary three pillars of employee benefits – qualified retirement plans, health and welfare plans, and fiduciary matters – as well as executive compensation.
- Rebecca is a trusted advisor on the design, implementation, ongoing compliance and correction of qualified plan defects and related submissions, under applicable ERISA and Internal Revenue Code requirements and correction programs.
- She rounds out her practice drafting and negotiating employment, retention, severance, and change in control agreements, and advising on the design and administration of equity incentive plans and other nonqualified plans.



# Today's Topics

- Overview
  - What are employee benefits?
- What's new for 2024?
  - Contribution Limits
  - SECURE 2.0
- State Employment Laws
  - Mini-COBRA
  - Paid Family Leave
  - State-Mandated Retirement Plans

# What Do We Mean When We Refer To Employee Benefits

Health and Welfare Plans

Qualified Retirement Plans

Non-Qualified Plans

Equity Incentive Plans

Fringe Benefits

# What Comes Under The Health and Welfare Plan Umbrella?



- Health and welfare benefit plans are a broad category of plans including:
  - Medical, dental, visual, psychiatric, or long-term health care; severance benefits; life insurance; accidental death or dismemberment benefits
  - Unemployment, disability, vacations or holiday benefits
  - Apprenticeships, tuition assistance, day-care, housing subsidies, or legal services benefits
  - Post-employment benefits such as salary continuation, supplemental unemployment benefits, disability-related job training and counseling

# Health Plan Glossary



## Affordable Care Act

- The Comprehensive health care reform law enacted in March 2010 that requires Applicable Large Employers to provide minimum levels of health insurance coverage or pay an employer shared responsibility payment to the IRS.

## Applicable Large Employer

- Employer with an average of at least 50 full-time employees. An applicable large employer may be a single entity or may consist of a group of related entities.

## COBRA

- The Consolidated Omnibus Budget Reconciliation Act (COBRA) gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan for limited periods of time under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events.

## Fully Insured Health Plan

- Employer buys health insurance for its employees through a commercial insurer. The plan's cost is paid through premiums by the employer, who may cost share with employees via co-pays, payroll deductions, etc.

## Self Funded Health Plan

- A plan where the employer takes on all the risk and pays its employees' health claims out of pocket. Employer may mitigate the high cost of claims by purchasing stop-loss insurance.

## Stop-Loss Insurance

- Stop-Loss is a type of insurance policy carried by a self-funded health plan that protects against catastrophic medical expenses.

# Qualified Retirement Plans

## Defined Benefit

- Promises a specific amount of benefit at retirement
- Example: 1 percent of average salary for the last 5 years of employment for every year of service with an employer

## Defined Contribution

- Does not promise a specific amount of benefit at retirement
- Participants have individual accounts
- Employee or the employer (or both) contribute to the employee's individual account under the plan

# Applicability of The Code and ERISA

Type of Plan	Internal Revenue Code	ERISA
Defined Benefit Plan	✓	✓
Defined Contribution Plan	✓	✓
Health and Welfare Plans	✓	✓

# Qualification Requirements Under The Code

Minimum  
Participation  
Requirements

Contribution  
Limits

Discrimination  
Testing

Minimum  
Vesting  
Requirements

Minimum  
Distribution  
Requirements

Funding  
Requirements

Exclusive  
Benefit  
Requirement

Operational  
Defects

Qualification  
Failures



# Section 125 Plan Traps For The Unwary



- Written Plan document is required
- Must offer certain benefits
- May only be offered to eligible employees
- Employee elections are irrevocable
- Subject to non-discrimination testing

# What Does It Mean To Be Covered By ERISA

Complex set of rules  
that mirror some of the  
Code's qualification  
requirements

Reporting – subject to  
government filing  
requirements

Disclosure – materials  
that must be made  
available to plan  
participants and  
beneficiaries

Plan Documentation –  
summary plan  
description

Claims Procedures and  
Processes

Records Retention

Trust Requirements  
(generally, applicable  
only to qualified  
retirement plans)

Federal Court – abuse of  
discretion standard

# You May Be An ERISA Fiduciary

## Status

- Discretionary authority or control over plan investments or administration
- Investment advice for a fee

## Duties

- Loyalty
- Prudence
- Diversification
- Follow plan documents

## Settlor vs. Fiduciary Functions

- **Settlor Functions**
  - Business decisions
  - Establishing plan
  - Terminating Plan
  - Amending plan terms
  - Plan compliance
- **Fiduciary Decisions**
  - Investing plan assets
  - Selecting service providers
  - Monitoring service providers
  - Interpreting plan provisions

# What Does Fiduciary Status Mean For Plan Administrators?

- Personal liability to the plan for losses
- Joint and several liability for breaches of co-fiduciary
  - Knowing participation or knowing concealment of co-fiduciary's breach
  - Failure to comply with duties of loyalty and care enable co-fiduciary to commit breach
  - Failure to take reasonable efforts to remedy breach

Reporting &  
Disclosure

Fiduciary  
Breach

# Plan Administrator vs. TPA vs. Recordkeeper



Plan Administrator	TPA	Recordkeeper
Amends and restate plan documents	Amends and restate plan documents	Track individuals' assets
Review and interpret plan provisions related to eligibility, contributions and earnings allocations; benefit distributions and vesting	Assist with the processing of distributions from the plan	Maintain website to check 401(k) balances and make transfers
Perform all required compliance testing	Prepare loan paperwork for plan participants	Print and mail account statements to employees
Distribute of all required disclosures – SPD, SMM, SAR, Fee Disclosure, Safe Harbor Notice, QDIA Notice, Auto-Enrollment Notice, participant benefit statements	Test the retirement plan each year to check compliance with all IRS non-discrimination requirements as well as plan and participant contribution limits	Request trades and other transactions within participant accounts
Comply with all required governmental reporting – Forms 5500, SBCs, Forms 1094 and 1095	Calculating participant vested percentages	Provide retirement calculators and guidance
Ensure timely deposits of contributions into participant accounts	Preparing annual reports as required by IRS, DOL, and other government entities	Produce enrollment and education materials
Make benefit determinations	Make benefit determination	Maintain toll-free customer service lines for plan participants

# Internal Standards and Procedures



- Investment Policy Statement
- Fiduciary Training
- Plan Governance Procedures
- Claims Procedures
- Purchase fiduciary liability insurance

# 2024 Contribution Limits



LIMITATION	2024	2023	2022
Total 401(k) and 403(b) Elective Deferral	\$23,000	\$22,500	\$20,500
401(k) and 403(b) Catch-Up (≥50)	\$7,500	\$7,500	\$6,500
457(b)(2) and 457(c)(1) Limits	\$23,000	\$22,500	\$20,500
Defined Benefit Maximum	\$275,000	\$265,000	\$245,000
Defined Contribution Maximum	\$69,000	\$66,000	\$61,000
Annual Compensation Limit	\$345,000	\$330,000	\$305,000
Highly Compensated Employee Threshold	\$155,000	\$150,000	\$135,000
Key Employee Threshold	\$220,000	\$215,000	\$200,000
Social Security Wage Base	\$168,600	\$160,200	\$147,000
SIMPLE IRA (≤49)	\$16,000	\$15,500	\$14,000
SIMPLE IRA with Catch-Up (≥50)	\$19,500	\$19,000	\$17,000
SEP IRA (Employer contributions only)	Lesser of 4% comp. or \$69,000	Lesser of 4% comp. or \$66,000	Lesser of 4% comp. or \$61,000
Total IRA Contributions (≤49)	\$7,000	\$6,500	\$6,000
Total IRA Contributions with Catch-Up (≥50)	\$8,000	\$7,500	\$7,000
Annual HSA Contribution Limit	\$4,150 single \$8,300 family	\$3,850 single \$7,750 family	\$3,650 single \$7,300 family
HSA Catch-up Contribution (≥55)	\$1,000	\$1,000	\$1,000
Annual HDHP Minimum Limit on Deductible Expenses	\$1,600 single \$3,200 family	\$1,500 single \$3,000 family	\$1,400 single \$2,800 family
Annual HDHP Maximum Limit on Out-of-Pocket Expenses	\$8,050 single \$16,100 family	\$7,500 single \$15,000 family	\$7,050 single \$14,100 family
Health Care FSA	\$3,200 per employee	\$3,050 per employee	\$2,850 per employee
Maximum Health Care FSA Carryover	\$640	\$610	\$570
Dependent Care FSA	\$5,000 per household	\$5,000 per household	\$5,000 per household

# Secure and Secure 2.0

Provision	SECURE Act	SECURE 2.0
<b>Minimum Distribution Requirements (RMD)</b> – when retirement plans must make distributions to participants during their lifetimes, and when beneficiaries must receive death benefits	Effective Jan. 1, 2020: Increased RMD age from 70½ to 72, and changed the period over which beneficiaries may receive payments, including adding a 10-year payment period for certain designated beneficiaries	Effective Jan. 1, 2023: Increased the age to 73 for individuals who reach age 72 after 2022. The age will be increased again, to age 75, for those who reach age 74 after 2032.
<b>Matching Contributions on Roth Basis</b> – at employee’s election		Effective Jan. 1, 2023: Employer matching and non-elective contributions may be made as Roth contributions (i.e., taxable at time made, but not at distribution).

# Secure and Secure 2.0

Provision	SECURE Act	SECURE 2.0
<b>Small Incentives for Contributing to a Plan</b>		Effective Dec. 29, 2022: Employers may provide de minimis incentives—such as low dollar gift cards—to improve plan participation.
<b>Catch-up contributions must be made on an after-tax Roth basis</b>		Effective Jan.1, 2026: Catch-up contributions by participants with wages in excess of \$145,000 for the prior calendar year <u>must</u> be made to the plan’s Roth account.
<b>Increase in catch-up contributions</b>		Effective Jan 1. 2025: For participants who turn age 60-63 during the tax year increase to the greater of \$10,000 or 150% of prior regular catch-up contribution.

# Secure and Secure 2.0



Provision	SECURE Act	SECURE 2.0
<b>Matching contributions on behalf of employees who are repaying student loans</b> – permits employers to make matching contributions based on an employee’s student loan repayment		Effective Jan. 1, 2024: Employers may make matching contributions to 401(k), 403(b), 457(b) and SIMPLE IRA plans for the benefit of employees who make student loan repayments
<b>In-plan Emergency Savings Accounts (ESA)</b>		Effective Jan. 1, 2024: Non-highly compensated employees may fund an ESA with Roth contributions up to \$2,500 and be permitted to take at least one withdrawal per month. Plan may elect to auto-enroll at a 3% contribution amount

# Secure and Secure 2.0



Provision	SECURE Act	SECURE 2.0
<b>Auto-enrollment and Auto-escalation</b>		Effective Jan. 1, 2025: New plans must require auto-enrollment (at 3% - 10%) and auto-escalation (at 1% up to 10% - 15%).
<b>Long-term Part-time Employees</b> – participation extended for elective deferrals; not required for matching contributions	Effective Jan 1, 2021: Employees who work at least 500 hours in three consecutive 12-month periods must be able to contribute to the 401(k) plan in the following plan year.  Note: Earliest date a part-time employee could enter the plan under these rules is Jan 1. 2024.	Effective Jan. 1, 2025: Three-year requirement is shortened to two years for plan years beginning after 2024. The Act also extends this requirement to private sector 403(b) plans.  Note: Earliest date a part-time employee could enter the plan under these rules is Jan 1. 2025.



# Long-Term Part-Time Employees

Eligibility	Three consecutive years of >500 and <1000 hours and meet the plans other eligibility requirements.
Employer Contributions	Plan can exclude LTPT employees from eligibility for employer contributions.
Catch-up Contributions	Plans may elect to allow LTPT employees to make catch-up contributions.
Eligibility Computation Periods	First computation period for LTPT employees is the 12 months following date of hire.
Vesting	LTPT employees accrue one year of vesting service for each year computation period with at least 500 hours of service.
Hours	Tracking hours starts from 2021.
Nondiscrimination Testing	Plans may exclude LTPT employees from nondiscrimination and coverage testing. Plan must state whether LTPT employees are included or excluded from testing.
Top-Heavy Testing	LTPT employee accounts count towards assessing whether a plan is top-heavy. Plan may elect to include LTPT employees for receiving top-heavy minimum contributions.

# Continuation of Health Coverage (COBRA)

*In general, COBRA only applies to employers with 20 or more employees. However, some states require insurers covering employers with fewer than 20 employees under a fully insured group health plan to let employees keep coverage for a limited time – Mini COBRA Laws.*

	MA	NH	ME	VT	CT	RI	NY
<b>No. of Employees</b>	2-19	<20	<20	2-19	<20	<20	<20
<b>Mirrors Federal COBRA</b>	Yes	Extended period of coverage for ex-spouse and dependents	Up to 12 months coverage for employee and dependents	Up to 6 months	Up to 30 months for fully insured Plan; 18 months for self-insured plan	Yes	Up to 36 months and coverage of unmarried children up to age 29

# FMLA vs. Paid Leave

- *Family Medical Leave Act (FMLA)*
  - Federal law that guarantees job-protected, unpaid time off to eligible workers for qualifying reasons, such as bonding with a new child, recovering from one's own serious illness or caring for a seriously ill loved one
  - Applicable to employers with 50 or more employees or smaller employers that choose to participate
- *Paid Leave*
  - State laws that enable workers to receive compensation when they take extended time off work for qualifying reasons
  - Currently no federal law regarding paid family and medical leave for the private sector

# Paid Leave

## *Paid Family and Medical Leave*

- Policies that enable workers to receive compensation when they take extended time off work for qualifying reasons, such as bonding with a new child, recovering from one's own serious illness or caring for a seriously ill loved one

## *Paid Sick Time*

- Policies that provide regular wages when workers need to take shorter leaves due to their own or a family member's routine illness like a cold or the flu, or to access medical care – including preventative care – for themselves or a family member

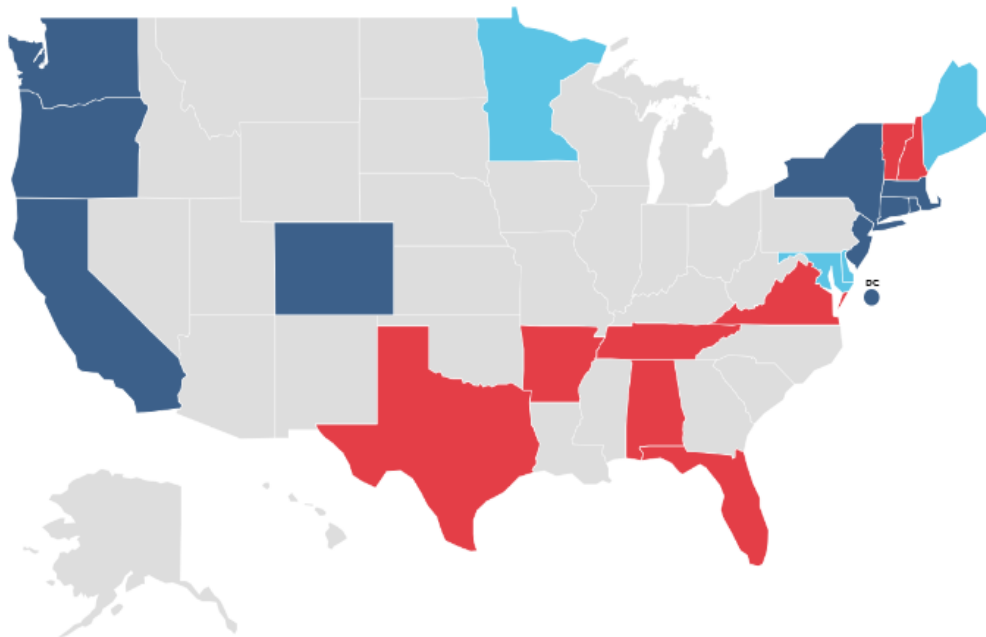
## *Paid Time Off (PTO)*

- Policies provide paid leave that can be used for a wide range of different uses including emergencies, illnesses, sudden necessities, planned vacations, etc. Often paid time off is offered in place of separate leave policies for vacation, sick time, personal days, and other forms of paid leave intended for specific purposes

# Paid Family Leave Programs

Status of PFL Laws

● Voluntary system (active) ● Mandatory system (active) ● Mandatory system (not yet active)



Mandatory (active)	Mandatory (not yet active)	Voluntary (active)
WA	MN	TX
OR	ME	AK
CA	DE	TN
CO	MD	AL
NY		TN
MA		FL
RI		VA
CT		VT
NJ		NH
DC		

# Features of Paid Family Leave Programs

- *Parental*
    - Birth, adoption, or foster care placement of a child
  - *Family Caregiving*
    - Care for a family member with a serious health condition
  - *Personal Medical*
    - Care for employee's own serious health condition
- *Military Care*
    - Qualifying exigency arising out of family member being on active duty (or having been notified of an impending call or order to active duty)
    - Care for family member who is a covered servicemember
  - *Safety Leave*
    - Certain purposes arising out of employee or employee's minor child/dependent experiencing domestic violence, harassment, sexual assault or stalking

# Features of Paid Family Leave Programs

State	Voluntary or Mandatory	Social or Private Insurance	Parental	Family Caregiving	Personal Medical	Military Care	Safety Leave	Total Paid Leave
MA	Mandatory	Social Insurance	12 wks	12 wks	20 wks	12-26 wks	None	26 wks
NH	Voluntary	Private Insurance	≥ 6 wks	≥ 6 wks	≥ 6 wks	≥ 6 wks	None	≥ 6 wks
ME	Mandatory	Social Insurance	12 wks	12 wks	12 wks	12 wks	12 wks	12 wks
VT	Voluntary	Private Insurance	≥ 6 wks	≥ 6 wks	≥ 6 wks	≥ 6 wks	None	≥ 6 wks
CT	Mandatory	Social Insurance	12 wks	12 wks	12 wks	12 days	12 wks	12 wks
RI	Mandatory	Social Insurance	6 wks	6 wks	30 wks	None	1 week	30 wks
NY	Mandatory	Private Insurance	12 wks	12 wks	26 wks	12 wks	None	26 wks

# Features of Paid Family Leave Programs



State	Effective	Eligibility Requirement (Wages or Tenure in One-Year Base Period)	Payroll Deduction Rate	Cap on Income Subject to Payroll Deduction	Who pays the premium?	Wage Replacement Rate	Max Weekly Benefit	Job Protection
MA	2019/2021	\$6,300 -AND- 30x benefit amount	0.88% (0.70% medical + 0.18% family)  0.46% for employers with less than 25 employees	\$168,600	Employee: 100% (family) 40% (medical) Employer: 0% (family) 60% (medical)	80% of AWW up to 0.5x SAWW + 50% of AWW >0.5x SAWW	\$1,449.90 (0.64x SAWW)	Yes
NH	2022/2023	Employer plan: None Individual plan: TBD	N/A	\$168,600	Set by employer	At least 60% of AWW	\$1,945	No
ME	2025/2026	Earned 6x the SAWW over a designated 12-month base period	TBD, up to a maximum of 1%	\$168,600	Employer: 50% Employee: 50%	90% of AWW that is ≤ 50% of SAWW + 66% of AWW > than 50% of SAWW	\$1,104	Yes, if employed by current employer for 120+ days
VT	23/24/25	Employer plan: None Individual plan: TBD	N/A	\$168,600	Set by employer	At least 60% of AWW	\$1,945	No
CT	2021/2022	\$2,325 in highest-earning quarter	0.50%	\$168,600	Employee	95% of AWW up to 40x CT minimum wage (\$627.60) + 60% of AWW >40x CT min wage	\$941.40 (60x CT min wage)	No
RI	2014	\$14,700 -OR- total wages ≥\$4,900 AND \$2,450 in one quarter AND total wages ≥1.5x highest quarter of earnings	1.10%	\$84,000	Employee	60% of AWW in highest-paid quarter	\$1,007	Yes
NY	2018	With a single employer: 26 consecutive weeks of full-time (20+ hours) employment -or- 175 part-time working days	0.373%	\$89,343.16	Employee	67% of AWW	\$1,151.16 (0.67x SAWW)	Yes

# When To Call For Help?



Build	Build a comprehensive and integrated approach to total compensation
Establish	Establish internal standards and procedures to limit exposure
Correct	Correct problems when things go wrong
Review	Review and negotiate service agreements with 3rd parties
Consult	Consult on administrative and regulatory compliance matters
Audit	Conduct a compliance audit



Questions Will Be Addressed During  
The Q&A, Please Submit via the  
“Questions” Field



COMMONWEALTH  
PAYROLL & HR



**Mark Alaimo**  
Managing Shareholder



# 2024 Things to Consider: Accountant's Perspective

# About Mark...

- Practicing since 2005
- Licenses & certifications: CPA/PFS, CFP<sup>®</sup>, AEP<sup>®</sup>
- Background in family office management, private wealth, and tax compliance and planning for private clients.
- Practice leader of LCW CPAs.
- Assurance practice largely focuses on serving small local based non-profit with the practice leader holding an AICPA non-profit certification
- Dad to 4, husband to one.
- If you aren't bored yet, visit: <https://lcwcpas.com/about-accounting-firm-lawrence-ma/accountants-team/mark-alaimo-cpa-lawrence-ma/>

# FinCEN | Beneficial Ownership Information (BOI) reporting

- Created by Corporate Transparency Act of 2021.
  - Will affect an estimated 32.6 million entities, with an estimated 5MM more annually
  - Unless exemption applies, most domestic entities registered with a Secretary of State that have less than \$5MM and less than 20 full-time employees.
  - All “control persons” need to be reported
- Initial filing due by 12/31/24 for entities in existence prior to 1/1/25; new entities have 90 days.
  - Entities must file an update within 90 days of an update in ownership.
  - Penalties for non-compliance:
    - \$500 per day up to \$10,000 and up to two years in prison.
  - More info: <https://www.fincen.gov/boi>

# Energy efficient investments

- Made 30% federal tax credit permanent by Inflation Reduction Act of 2022
- Can obtain the credit with a signed agreement and 10% down
- Bonus depreciation for 85% of the total when put into service
- Depreciate for MA purposes over 5 years
- SREC incentives on a state by state basis
- ROI for most under 3.5 years

- Over \$230 billion in ERTC claims (three times the initial estimate)
- As of September, the IRS had paid out in excess of \$8 billion in fraudulent claims
- Windfall for likely half of recipients
- Amnesty program permits retaining 20% of what received, returning 80% (until 3/22/24)
- <https://www.irs.gov/newsroom/withdraw-an-employee-retention-credit-erc-claim>
- Income tax implications

# Nexus implications of remote workers

- Nexus: Business presence in a state
- Maintaining the “corporate veil”
- Registration considerations
- Income tax implications
- Sales tax implications
- Unemployment tax considerations
- Employee benefit considerations
- State DOL considerations

# Executive retention strategies using non-qualified plans

- Insurance based plans
  - Split-dollar
  - Non-qualified annuities
  - Etc...
- Non-insurance based plans
  - Deferred bonus plans (pool or individually)
  - Phantom stock and/or stock appreciation rights
  - Etc...



# Questions?



# Thank You!

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