





EY Payroll NewsFlash

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Oregon employers exempt from making contributions to the state's paid family and medical leave program must file by November 30, 2022

Employers that intend to provide employees with paid leave benefits equivalent to Oregon's Paid Family and Medical Leave Insurance (PFMLI) program must, by November 30, 2022, submit to the Oregon Employment Department (OED) either an [Equivalent Plan Application](#) covering all Oregon employees who meet the requirements for PFMLI or a [Declaration of Intent](#) that certifies they will submit an Equivalent Plan Application by May 31, 2023.

An equivalent plan may be an employer's self-insured plan where the employer assumes 100% of the financial risk or a fully insured plan through a third party.

Employers that provide a qualified equivalent paid family and medical leave plan are exempt from collecting and making contributions to the state's PFMLI program.

By way of review, employers that provide equivalent paid family medical leave benefits can apply to the Department for an exemption from making contributions and deducting employee contributions if:

- The plan is available to all employees who are continuously employed for 30 days
- The benefits available to employees are equal to or greater than the weekly benefits and duration of leave that an eligible employee would qualify for under the PFMLI program

- The employer gives written notice to employees about the benefits available under the plan, including: (1) duration of leave, (2) the process for filing a claim and deductions, (3) the employee's right to dispute a benefit determination, job protection and benefit continuation, and (4) a statement prohibiting discrimination or retaliation

Background

Oregon HB 2005, enacted in 2019, created a PFMLI program that is funded by both employers and employees. Employers with fewer than 25 employees are exempt from paying the employer contribution, though they may choose to pay the employer's portion. The OED administers the program. (*EY Tax Alert* [2019-1458](#), 8-13-2019.)

Legislation enacted in 2021 ([HB 3398](#)) delayed the requirement for employers to begin making PFMLI contributions from January 1, 2022 to January 1, 2023 and the date that employees may begin collecting PFMLI benefits from January 1, 2023 to September 3, 2023. (*EY Tax Alert* [2021-1461](#), 8-3-2021; see also *Tax Alert* [2022-0071](#), 1-13-2022.)

Self-employed individuals may opt into the state PFMLI program.

The definition of wages is the same as for state unemployment insurance (SUI) contributions ([ORS 657.105](#)), but the taxable wage limit differs. If employers of fewer than 25 employees elect to pay the 40% employer portion, they may be eligible for a state grant. Assistance grants are available for small employers to help with the costs of replacing an employee taking paid leave. The grants cover up to \$3,000 per employee for up to 10 employees per year (\$30,000 total). Small employers that receive grants commit to pay the employer portion of contributions for two years.

Employee notices

Employers are required to provide written notice to employees regarding their entitlement to PFMLI benefits. The OED will develop a model notice that employers may use.

PFMLI contributions begin January 1, 2023

As we previously reported (see *EY Tax Alert* [2022-1370](#)), the OED [released](#) the 2023 PFMLI rates and limits reflecting that beginning January 1, 2023, the contribution rate is 1% of taxable wages up to \$132,900.00 (as indexed annually for inflation). Employees pay 60% of contribution, and employers pay the remaining 40%. For example, if an employee made \$1,000.00 in wages, the employee pays \$6.00 and the employer pays \$4.00.

Small employers with fewer than 25 employees are not required to pay the employer portion of contributions. Larger employers may choose to pay the employee portion as a benefit for their employees. For purposes of these provisions, the OED will notify employers of their size each year.

Contributions will be included in combined payroll forms starting first-quarter 2023. Employers will deduct employees' PFMLI from paychecks beginning January 1, 2023. Employers will then report wages and pay both the employee and employer contributions through the combined payroll reporting process via the new online reporting program ([Frances Online](#)).

Contact us for more information

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