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Maryland law delays start date of state's paid family and medical leave insurance program, among other changes

Maryland Governor Wes More approved [S.B. 828] on May 1, 2023, which delays the start date of the state's paid family and medical leave insurance (FMLI) program and makes other changes to the program's requirements.

Maryland's FMLI program was originally enacted in 2022 under the Time to Care Act ([S.B. 275]) and participation is mandatory for employers with one or more employees.

FMLI changes under S.B. 828

- **Delayed start date**
  Under prior law, employers were to begin paying contributions to the FMLI program starting October 1, 2023. S.B. 828 delays that date to October 1, 2024.

  Under prior law, eligible employees could begin receiving benefits effective January 1, 2025. S.B. 828 delays that date to January 1, 2026.

- **Contribution rate**
  Under prior law, the Maryland Department of Labor was required to determine the contribution rate by June 1, 2023, with tax cost to be shared by employers and employees ranging from 25% to 75% of the contribution.

  S.B. 828 sets the maximum contribution rate at 1.2% up to the Social Security wage base. The initial contribution rate will remain in effect until June 30, 2026, with rates determined annually thereafter.

  For employers with 15 or more employees, the tax is paid 50% by employers and 50% by employees. For employers with fewer than 15 employees, employees may be required to pay 100% of the tax.

Employers have the option of paying some or all of the employee's FMLI contribution provided they notify employees of the contribution amount that will be withheld from their wages.

- **Definition of taxable wages**
  S.B. 828 defines FMLI taxable wages as:

  - An hourly wage or a salary
  - A commission
  - Compensatory pay
  - Severance pay
  - Standby pay
  - A tip or gratuity
  - Holliday or vacation pay
  - Any other paid leave including sick leave that is paid to the employee entirely by the employer

  The law does not stipulate that reductions in the FMLI taxable wage are allowed for pretax contributions under a cafeteria plan or a qualified transportation benefit plan.

- **Private insurance plans**
  In lieu of participation in the state's FMLI plan, employers may obtain paid family and medical leave insurance through a private insurance provider. Under a private plan, employers cannot require employees to contribute more than what is allowed under the state's FMLI program.

Ernst & Young LLP insights

Fifteen jurisdictions (California, Connecticut, Colorado, Delaware, District of Columbia, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Vermont and Washington) are now operating, or will soon be operating, paid family and medical leave insurance programs.

For more information about these state plans, see our *2023 US employment tax rates and limits* special report.

Contact us for more information

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