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State-mandated and voluntary paid family and medical leave are on the rise. Six states and the District of Columbia have implemented paid family leave programs and, according to Bloomberg (https://bloom.bg/2lGmibx) more than one in three employers offer this benefit, including America's 20 largets employers. To avoid payroll mishaps, your clients must be able to answer: Is paid family leave taxable?

Family and medical leave basics

Before we answer the question, "*How does paid family leave affect taxes?,*" let's review

employers must follow. FMLA covered employers must provide employees with up to 12 weeks of unpaid leave for eligible health and family reasons. Businesses required to offer unpaid FMLA leave are those with at least 50 employees. Employees can take FMLA leave after working at a business for at least 12 months.

Under the FMLA, employees can use unpaid leave for:

- The birth, adoption, or foster care placement of a child
- The care of a spouse, child, or parent with a serious health condition
- A personal serious health condition that makes the employee unable to perform their job
- A situation that requires attention because of the military deployment of a spouse, child, or parent

If your clients are exempt from the FMLA, you can still choose to offer unpaid family and medical leave.

Paid family and medical leave

Many states use FMLA rules as a guideline when creating their paid parental leave regulations. However, paid family leave rules differ from state to state. For example, states set varying reasons employees can take time off for. PFL requires employers and/or employees to pay into a state fund. If an employee needs to take family leave, they receive a portion of their regular wages, which varies by state.

The following have state-mandated paid family and medical leave:

- California
- Massachusetts
- New Jersey
- New York

- Rhode Island

If your clients are subject to state-mandated paid family leave, there are two tax questions that likely come to mind:

1. **Are employee contributions taxable?**
   Aside from Washington D.C., the current states that mandate PFL require employees to pay into the fund. Deducting the employee's portion before withholding taxes means their contributions are not taxable (e.g., pre-tax deduction). Deducting the employee's portion after withholding taxes means their contributions are taxable (e.g., post-tax deduction).So, which is it? Are employee PFL contributions pre-tax or post-tax deductions? **Employee PFL contributions are post-tax deductions, therefore their contributions are subject to taxes.**
2. **Are employee PFL benefits taxable?**
   If an employee takes paid family leave, are their PFL wages subject to federal income, Social Security, and Medicare taxes? Employee PFL benefits are subject to federal income tax (aside from the disability portion of Rhode Island's program). However, PFL benefits are not subject to Social Security and Medicare taxes, or federal unemployment (FUTA) tax.
   When an employee receives PFL benefits, the payments come from the state. Employers do not withhold taxes on an employee's PFL benefits because they are not included in payroll. State governments do not automatically withhold paid family leave federal tax from an employee's PFL benefits. However, an employee can request to have income taxes withheld by filing Form W-4V, Voluntary Withholding Request.

Non-mandated family leave

Voluntarily providing paid family leave to employees is another story. So far, the IRS has not explicitly released rules on whether PFL benefits are exempt from federal income, Social Security, Medicare, or FUTA taxes.

Regardless of whether you or a private insurance company pay out PFL benefits,

The State Insurance Fund reports paid family leave benefits and any federal income taxes withheld on Form 1099-G, Certain Government Payments.

Payroll