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Return of Voluntary Self-Audits Under DOL's PAID Program

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On July 24, 2025, the U.S. Department of Labor's (DOL) Wage and Hour Division announced that it was relaunching its Payroll Audit Independent Determination (PAID) program. The program started in 2018 but was discontinued in 2021 under the previous administration. PAID is meant to promote employers' voluntary resolution of Fair Labor Standards Act (FLSA) wage and hour violations (such as minimum wage or overtime violations), and the program also has been expanded to address certain Family and Medical Leave Act (FMLA) violations (such as miscalculating the amount of FMLA leave available). Through PAID, employers are encouraged to self-report FLSA and FMLA violations to correct violations and facilitate relief to employees, while avoiding formal complaints or litigation.

How PAID Works

Below is a general overview of how PAID works:

- **Step 1 – Certification Requirement:** To participate in PAID, an employer must complete the FLSA and/or FMLA Compliance Assistance Review and obtain a Certificate of Completion.
- **Step 2 – Self-Audit:** Employers must complete a self-audit and identify potential violations, employees affected, and the applicable timeframes and calculate the amount of back wages owed to each employee and/or specify FMLA remedies that are necessary for compliance.
- **Step 3 – Report Findings:** Employers are then required to report to the DOL's Wage and Hour Division (WHD) their findings, which include (among other items) back wage calculations and any remedies due, including supporting evidence and methodology. Employers also will be asked to provide records to show they have corrected their practices to comply with the FLSA and/or FMLA and certify that they meet all program requirements.
- **Step 4 – WHD Review:** The WHD will evaluate the submission and provide guidance on next steps, including any additional information required to review the back wages and other remedies due for the identified compensation and leave practices.
- **Step 5 – Resolution & Payment or Other Remedies:** After the WHD reviews the submission it will issue a summary of unpaid wages and/or remedies to the employer and a

release of claims. Employers must pay all back wages and remedies within 15 days of receiving the summary and provide proof of payment and documentation to the WHD.

Who Can Participate in PAID?

The WHD has discretion as to whether to accept employers into the program, but there are multiple eligibility requirements to participate, including the following:

- Neither the WHD nor a court of law has found that the employer has violated the FLSA or the FMLA within the last three years;
- The employer is not currently a party to any litigation (including arbitration proceedings or state agency actions) asserting the FLSA or FMLA violation at issue;
- The WHD is not currently investigating the violations at issue;
- The employer has informed the WHD of any recent complaints of which it is aware challenging the compensation or leave practices at issue in the proposed PAID audit;
- The employer has not previously participated in PAID within the last three years to resolve the potential FLSA or FMLA violations at issue;
- The employer acknowledges that participating in the PAID program does not cut off employee rights under other federal, state, or local laws.

Risks and Limitations of the PAID Program

Employees are free to reject any payments or remedies offered to them and thereby retain their rights. Any release that the employee accepts would be limited to the identified violations for the applicable timeframes only. Additionally, as noted above, any release would not affect state or local wage and hour and leave laws. And although the WHD states that if it declines an employer's good faith request to participate in the program, such request will not serve as the basis for a future investigation for the identified issues (absent a health or safety risk); nonetheless, the employer is alerting the DOL to a potential wage and hour or FMLA violation.

What Should Employers Do Next?

Employers should view the PAID program as a potentially useful compliance tool that can avoid the time and expense of litigation. But potential participation requires thoughtful consideration, especially because the PAID program cannot limit employee rights under other state or local laws, and employees may freely reject any relief offered and retain their right to sue.

Before taking any action, employers should consult with experienced employment counsel. Legal guidance can help ensure that any self-audit is properly conducted (including to

preserve attorney-client privilege), that any back wage calculations are accurate, and that participation in the program aligns with the company's broader compliance and risk management goals.

Additional Information

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