

# Preparing Your Business for the New Year

St. Lawrence County Chamber of Commerce

# Preparing for 2019

- Send annual notice requirements
- Send CMS letters & complete online filing/notification with CMS
- Update payroll deduction authorizations
- Update Summary Plan Descriptions (SPDs)
- Update employee handbooks

# NYS Combatting Sexual Harassment

- Regulations apply to ALL employers in New York State, regardless of number of employees
- Extends protection for non-employees in the workplace
  - Contractors, vendors
- Nondisclosure agreements cannot be required by the employer
  - Complainant can request one
- Mandatory arbitration clauses for sexual harassment cases cannot be included in contracts as of July 11, 2018
- Employers must investigate complaints timely and address accordingly

# NYS Combatting Sexual Harassment

- What had to be completed by October 9<sup>th</sup>, 2018?
  - Prevention Policy
  - Complaint form
  - Poster
- What has to be completed by October 9<sup>th</sup>, 2019?
  - Prevention training for all employees

# NYS Combatting Sexual Harassment

The training must:

- be interactive
- include an explanation of sexual harassment consistent with guidance issued by the DOL in consultation with the DHR
- include examples of conduct that would constitute unlawful sexual harassment
- include information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment
- include information concerning employees' rights of redress and all available forums for adjudicating complaints
- include information addressing conduct by supervisors and any additional responsibilities for such supervisors

# NYS Combatting Sexual Harassment

## Misc. and FAQs:

- It is highly recommended that you maintain copies of all training documents (i.e. copy of presentation, certificate of completion etc.)
- Complete new hire training as soon as possible
- Employers are responsible for getting all employees trained (even if they do not show up for a scheduled training session)
- Training must be provided for any employee working in NYS for any period of time
  - If you have employees in other states, they do not need to receive training (but it may not hurt)

# NYS Paid Family Leave Law

- Overview: NY's Paid Family Leave law requires private sector employers to provide paid family leave benefits to eligible employees:
  - To bond with child during the first 12 months after the child's birth or after placement of the child for adoption or foster care
  - To provide care, including physical or psychological, to a family member with a serious health condition – family members include: child, grandchild, parent, parent-in-law, grandparent, spouse or domestic partner
  - Because of any qualifying exigency under FMLA arising when spouse, domestic partner, child or parent of employee is on active duty (or been notified of call to active duty) in the US Armed Forces
  - To help family member prepare for, and recover from, surgery related to organ or tissue donation (effective February 3, 2019)

# NYS Paid Family Leave Law

- Eligibility:
  - An employee who works 20 hours or more per week for a covered employer for 26 or more consecutive weeks
  - Part-time employees (who work fewer than 20 hours per week) after working for a covered employer for 175 days
- Funding:
  - Paid family leave benefits are funded entirely through employee payroll deductions. No employer contribution is required. January 1, 2019 employers may deduct 0.153 percent of an employee's weekly wages up to an annual maximum of \$107.97
    - 2018 was 0.126 percent of weekly wages up to an annual maximum of \$85.56



# NYS Paid Family Leave Law

- Employee Notice:
  - If foreseeable, an employee may be required to provide his or her employer with 30 days advance notice of the intention to take family leave
  - If the leave is not foreseeable, the employee must provide notice as soon as practicable
- Interaction with Other Laws and Benefits:
  - Employee's cannot receive both NYS Disability and NYS Paid Family Leave at the same time and they are not entitled to more than 26 weeks of combined (DBL & PFL) leave during a 52 consecutive calendar week period
  - Paid Family Leave must run concurrently with FMLA, unless an employer chooses to permit otherwise

# NYS Paid Family Leave Law

- 2019 Benefits:
  - 55% of the employee's average weekly wage (up to 55% of the state average weekly wage)
  - NYS average weekly for 2019 is \$1357.11 (maximum benefit is \$746.41 per week)
  - Payable for 10 weeks

# NYS Paid Family Leave Law

- Employee Protections:
  - An employee who takes time off for a permitted leave must be reinstated to their original position (or a comparable position with equal pay) upon return to work
  - Employer must maintain an employee's group health plan benefits for the duration of paid family leave (this includes the employee continuing to pay their share of the premium)
- Employer Notice Requirements:
  - Employers must conspicuously post a notice in the workplace indicating their compliance with paid family leave
  - Employers must provide written notice regarding employee's rights and obligations including how to file a claim (may be included in employee handbook)
  - Employers must provide employees who take eight or more consecutive days of leave with a written notice of their rights under the family leave law.

# FLSA Overtime Rule

- FLSA oversees Federal minimum wage and overtime guidelines
- FLSA defines who is exempt and non-exempt. Non-exempt employees must satisfy one of the following exemptions:
  - Executive
  - Administrative
  - Professional
  - Computer Employee
  - Outside Sales
  - Highly-Compensated
- Current salary minimum for an exempt employee is \$455/week
- A revision attempt was made in 2016, but it was too drastic and didn't pass
- Currently there are discussions about a more modest revision in 2019

# NYS Minimum Wage

General Minimum Wage Rate Schedule						
Location	12/31/16	12/31/17	12/31/18	12/31/19	12/31/20	2021*
NYC - Big Employers (of 11 or more)	\$11.00	\$13.00	\$15.00			
NYC - Small Employers (10 or less)	\$10.50	\$12.00	\$13.50	\$15.00		
Long Island & Westchester	\$10.00	\$11.00	\$12.00	\$13.00	\$14.00	\$15.00
Remainder of New York State Workers	\$9.70	\$10.40	\$11.10	\$11.80	\$12.50	*

\* Annual increases for the rest of the state will continue until the rate reaches \$15 minimum wage (and \$10 tipped wage). Starting 2021, the annual increases will be published by the Commissioner of Labor on or before October 1. They will be based on percentage increases determined by the Director of the Division of Budget, based on economic indices, including the Consumer Price Index.

# Affordable Care Act Updates

- Individual Mandate
  - Still required to have health insurance, but penalty goes to zero
- ACA Reporting is still in effect
  - Applies to ALEs (Applicable Large Employers)- 50+ full-time and full-time equivalent employees
  - Minimum Essential Coverage (MEC) still has to be offered and it has to be affordable
    - In 2019, coverage is considered affordable if it doesn't exceed 9.86% of the employee's household income

# Questions?

Thank you for attending!