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NOVEMBER 27, 2020

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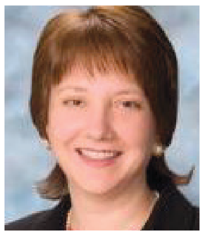
HANDLING VACATION TIME: HOW TO SATISFY YOURSELF AND YOUR EMPLOYEES

With limited exceptions, an employer is not required to provide vacation or holiday leave to employees. It's almost as if Ebenezer Scrooge's Victorian England is alive and well. However, denying leave is an almost certain way to lose employees and hobble recruiting and retention. Central Ohio is still relatively competitive when it comes to hiring, and with remote working becoming more commonplace, it's even easier for talent to jump, so why wouldn't you want to offer paid holidays and paid vacation?

But that's really not the question, is it? The real question is: can you deny or limit an employee's use of time off during the holidays? In short, yes. The pandemic created even more challenges for employers in 2020 than usual because employees have already been working from home; employers have already paid employees for Paid Sick Leave and Emergency Family and Medical Leave under the FFCRA; and some businesses closed down



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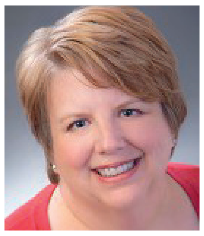

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altogether for several weeks. Some people might mistakenly think 2020 has been one long vacation.

Some businesses, such as hospitals and emergency responders, have a legitimate need to stay open on an actual holiday; in those cases, the business has a right - even an obligation - to ensure that staffing levels are met. Generally, those businesses have bargaining agreements or contracts in place that lay out staffing requirements and request-off procedures. It's the rest of the workplace world that has to navigate not just Christmas Day, but the entire holiday season from Thanksgiving week through New Year's Day. Multiply fairness and business needs by COVID, and the complexity level can skyrocket.

Do you grant time off by employee tenure? First request gets first approval? Management versus non-management? Exempt versus non-exempt? You can start to see the challenges with each of these approaches, not only from a "fairness" perspective, but also a potential discriminatory perspective.

Setting up policies that allow for employees to request off time can be challenging, but there are options at your disposal:

- Create "blackout" periods for peak times in your business, preventing any leave time except for emergencies or protected classes (religion, etc.).
- Require requests to be submitted by a specific date.
- Consider factors such as seniority, etc. However, in these cases, make sure you track the requests each year and have some type of rotation policy in place so everyone has an opportunity to have time off.
- Split the holidays. For some people, one holiday may be of greater personal importance than another, so think about implementing a system that emphasizes personal importance.
- Build in consequences for abuse. If an employee was denied the day off and then called off, evaluate whether there are consequences for this. For full-time, non-exempt employees, that may include not paying for the holiday itself.

Companies are cutting costs and losing opportunities to gather this year; don't allow antiquated leave policies (or no leave policies) contribute to an already challenging work environment.

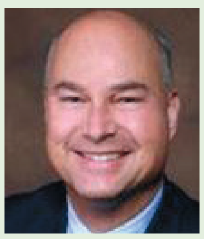
ATTORNEYS: THE SUPREME COURT OF OHIO HAS WAIVED THE SELF-STUDY CLE CAP THROUGH 2021. CHECK OUT SOME ONLINE CLE COURSES TODAY: CBALAW.ORG/ONLINECLE

THE CARES ACT AND CHARITABLE DEDUCTIONS

The 2020 "landscape" for charitable gift planning (both individual and corporations) has changed in light of the pandemic and the passage of the CARES Act.

The CARES act has increased the limitations on deductible charitable gifts to public charities.

Under prior rules, individuals who do not itemize deductions on their income tax returns could not take a charitable deduction for cash



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contributions to qualified charities. The passage of the Tax Cuts and Jobs Act of 2017 reduced the number of individuals who chose to itemize deductions by (a) raising the standard deduction to $12,400 for single taxpayers and $24,800 for married taxpayers filing jointly; and (b) capping the deduction for state and local taxes at $10,000. The CARES Act adds an above-the-line deduction allowing a non-itemizer to deduct up to $300 of cash contributions to a qualified charity

For itemizers, IRC Section 170(b)(1) limited the deduction for cash contributions to qualified charitable organizations to 60 percent of the individual's AGI. Under the CARES Act, the deduction for cash contributions to a qualified charitable organization in 2020 is increased to 100 percent of the individual's AGI. If the contribution exceeds the limitation, the individual can carry forward and utilize excess amounts over the following five years.

Under prior law, corporate deductions for cash contributions to qualified charities were limited to 10 percent of taxable income. The CARES Act increases this limitation for cash contributions to qualified charities in 2020 to 25 percent of a corporation's taxable income. The corporation can also carry forward and utilize any access amount over the following five years. In addition, the limitation for deductions of corporate contributions of food inventory is also increased from 15 percent to 25 percent.

Finally, cash contributions must be made to a public charity and cannot be made to a donor advised fund or private foundation.