

830 CMR 175M.00: FAMILY AND MEDICAL LEAVE

Section

175M.8.1: Administration and Collection of Paid Family and Medical Leave Contributions

175M.8.1: Administration and Collection of Paid Family and Medical Leave Contributions

(1) Scope of Regulation; Background; Outline of Topics; Effective Date.

(a) Scope of Regulation. 830 CMR 175M.8.1 sets forth the Department's rules applicable to the filing of PFML returns and to the administration and collection of PFML contributions.

(b) Background. "An Act Relative to Minimum Wage, Paid Family Medical Leave and the Sales Tax Holiday", St. 2018, c. 121, § 27, established the PFML program, which is overseen by DFML. The PFML program will provide individuals on family leave or medical leave with paid benefits funded by PFML contributions. Effective October 1, 2019, all employers and covered business entities must remit PFML contributions on behalf of employees and certain self-employed individuals to the Department. St. 2018, c. 121, § 30. Self-employed individuals not otherwise covered by PFML may elect to participate in the program and remit PFML contributions to the Department from their self-employment income. M.G.L. c. 175M, § 6(b). Pursuant to M.G.L. c. 175M, § 8(g), DFML has delegated to the Commissioner the administration and collection of PFML contributions. PFML contributions are considered taxes subject to the administration and collection provisions of M.G.L. c. 62C, and 830 CMR 175M.8.1. Further, pursuant to M.G.L. c. 62C, § 5, the Commissioner may prescribe the manner, format, and medium in which returns must be filed with the Department. Accordingly, the filing of an employment and wage detail report by an employer, covered business entity, or participating self-employed individual through MassTaxConnect, as required by DFML, constitutes the filing of a return for the purposes of M.G.L. c. 62C, and 830 CMR 175M.8.1.

(c) Outline of Topics. 830 CMR 175M.8.1 is organized as follows:

1. Scope of Regulation; Background; Outline of Topics; Effective Date.
2. Definitions.
3. PFML Returns and Payments.
4. Collection.
5. Penalties and Interest.

(d) Effective Date. 830 CMR 175M.8.1 is effective for all PFML contributions required to be remitted on or after October 1, 2019.

(2) Definitions. For the purposes of 830 CMR 175M.8.1, the following terms have the following meanings:

Abatement. An application by an employer, covered business entity, or participating self-employed individual filed with the Department pursuant to M.G.L. c. 62C, § 37 that seeks to reduce a previous assessment of tax, including PFML contributions, and/or penalties, issued by the Commissioner.

Amended Return. A correction or adjustment made by an employer, covered business entity, or participating self-employed individual to a previously filed PFML return to increase or decrease a previously self-assessed tax.

Assessment. The determination of tax due by the Commissioner upon the issuance of a deficiency assessment or any self-assessment of tax by an employer, covered business entity, or participating self-employed individual.

Commissioner. The Commissioner of Revenue or the Commissioner's duly authorized representative.

Covered Business Entity. A trade or business as defined in M.G.L. c. 175M, § 1 that contracts with self-employed individuals for services and is required to report the payment for services to such individuals on IRS Form 1099-MISC for more than 50% of its workforce. Covered business entities are required to remit PFML contributions to the Department.

175M.8.1: continued

Department. The Massachusetts Department of Revenue.

Department of Family and Medical Leave or DFML. The Department of Family and Medical Leave authorized to oversee the PFML program pursuant to M.G.L. c. 175M, § 8.

Employer. An employer required to remit PFML contributions under M.G.L. c. 175M.

Paid Family and Medical Leave or PFML. The Massachusetts Paid Family and Medical Leave program established under M.G.L. c. 175M.

Participating Self-employed Individual. A self-employed individual, as defined in M.G.L. c. 175M, § 1, who has elected coverage under the PFML program pursuant to M.G.L. c. 175M, § 2(j).

PFML Contributions. The payment required to be remitted by employers, covered business entities, and participating self-employed individuals pursuant to M.G.L. c. 175M, § 6.

PFML Return. A return filed by an employer, covered business entity, or participating self-employed individual reporting PFML contributions properly completed and filed in the manner prescribed by the Commissioner. For the purposes of 830 CMR 175M.8.1, the employment and wage detail report DFML requires to be filed by employers, covered business entities, and participating self-employed individuals when remitting PFML contributions to the Department is considered a return filed under and subject to M.G.L. c. 62C.

(3) PFML Returns and Payments. PFML contributions are considered to be taxes for purposes of M.G.L. c. 62C and 830 CMR 175M.8.1. As such, the following explain the rights and obligations of employers, covered business entities, and participating self-employed individuals with respect to their PFML returns.

(a) Returns and Payments. DFML requires employers, covered business entities, and participating self-employed individuals to file a PFML return through MassTaxConnect when remitting contributions to the Department. 458 CMR 2.04(2). Employers, covered business entities, and participating self-employed individuals must file a PFML return and remit PFML contributions through MassTaxConnect on or before the last day of the month following the close of the previous calendar quarter.

(b) Self-assessment. The filing of a PFML return shall be considered a self-assessment of tax pursuant to M.G.L. c. 62C, § 26(a), with any PFML contribution deemed to be self-assessed at the amount shown as due on the return or at the amount properly due, whichever is less, and at the time when the PFML return is filed or required to be filed, whichever occurs later.

(c) Deficiency Assessment. If the Commissioner determines that the full amount of the PFML contribution due from an employer, covered business entity, or participating self-employed individual has not been assessed or deemed to be assessed, the Commissioner may assess the full amount of the PFML contribution pursuant to M.G.L. c. 62C, § 26(b) and M.G.L. c. 175M, § 8(g).

(d) Amended Returns. An employer, covered business entity, or participating self-employed individual may adjust the self-assessed PFML contribution on a previously filed PFML return by filing an amended return in accordance with the procedures outlined in 830 CMR 62C.26.2: *Amended Returns*.

(e) Abatements. An employer, covered business entity, or participating self-employed individual may seek an abatement of PFML contributions assessed by the Commissioner in accordance with the procedures set forth in M.G.L. c. 62C, § 37, and 830 CMR 62C.37.1: *Abatements*. The filing of a PFML return through MassTaxConnect on or before filing an application for abatement satisfies the prerequisite for abatement required under M.G.L. c. 62C, § 38.

175M.8.1: continued

(4) Collections. As provided by M.G.L. c. 175M, § 8(g), all provisions of M.G.L. c. 62C authorizing the Commissioner to collect any tax due are applicable to any PFML contributions due from an employer, covered business entity, or participating self-employed individual, subject to any period of limitations established by M.G.L. c. 62C. A tax lien in favor of the Commonwealth shall arise in connection with unpaid PFML contributions at the time of the assessment thereof as provided in M.G.L. c. 62C, § 50.

(5) Penalties and Interest.

(a) Penalties. An employer, covered business entity, or participating self-employed individual that fail to file a PFML return, file a PFML return timely, or pay the PFML contributions may be subject to penalties under M.G.L. c. 62C. *See 830 CMR 62C.33.1: Interest, Penalties, and Application of Payments.*

(b) Interest. Any portion of the PFML contributions that is not paid on or before the due date of a PFML return will have added to it interest from the due date of the PFML return to the date the PFML contributions are paid at a rate prescribed by M.G.L. c. 62C, § 32.

REGULATORY AUTHORITY

830 CMR 175M.00: M.G.L. c. 14, § 6(1); M.G.L. c. 62C, § 3