

Calls for Permanent Paid Leave Grow as Temporary Measures Fade, BloombergTax, ft. Philip Voluck

Philip R. Voluck, managing partner of the KD Blue Bell, PA office and co-chair of KD's Labor & Employment Law Practice Group, is quoted Bloomberg's article on paid leave and FFCRA, published on January 27, 2021

House Democrats, steeled by the pandemic, are eager to advance permanent paid leave legislation in tandem with temporary protections the Biden administration is expected to try to push through Congress in coming weeks.

Despite national support for framework legislation, the U.S. remains the only developed country in the world without some measure of paid family leave for private-sector workers; Congress has yet to act since it passed the unpaid Family and Medical Leave Act in 1993. Paid leave was thrown back into sharper legislative focus during the pandemic, when the choice between work and wellness became a matter of public health.

Paid child care and sick leave for some workers was put in place under the Families First Coronavirus Response Act last year, but the employer mandate expired in December. President Joe Biden's virus recovery package promises more benefits for more Americans, but his \$1.9 trillion proposal has already met Republican pushback, and its paid leave components would expire in September.

Restless proponents want a permanent paid leave solution to become law during Biden's term. Republicans have blocked paid leave proposals in the Senate for years, but even employer groups that were once staunchly opposed are changing their tune in light of the Democratic control of Congress and the White House.

Haunting Tax Credits

A rider in the 2017 Tax Cuts and Jobs Act rewarded private employers with a tax credit valued at an eighth of an employee's wages if the employer offered at least two weeks of voluntary half-pay family and medical leave. The credit covered a quarter of the employee's wages if the employer offered paid leave at full pay.

Tax credits need to be a part of future paid leave discussions, said Philip Voluck, a managing partner of a Kaufman, Dolowich Voluck LLP in Blue Bell, Pa., and co-chair of the firm's labor and employment law practice group. The credit is a powerful motivating tool that can expand coverage without making any FMLA-style paid leave proposal unpalatable across the aisle, he said.

"At some point Covid's going to be an afterthought, and the FFCRA will similarly be an afterthought," Voluck said. "But in order to maintain safe workplaces as well as guard against any resurgence, employers need to do this. And I think you'll find the obvious way to do this is through the FMLA."