MEYER SUOZZI

CLIENT ALERT

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New York City Employers Must Comply with New Law by July 1, 2016

New York City employers have until July 1, 2016 to comply with the New York City Commuter Benefits Law ("NYCCBL") which became effective on January 1, 2016. This law applies to all New York City for-profit and nonprofit employers with at least twenty full-time, non-union employees. The law defines full-time employees as those that work for one employer for more than 30 hours per week as calculated by the average number of hours worked in the most recent four weeks.

Under the NYCCBL, employers must allow covered employees working for any period of time in New York City (Brooklyn, Bronx, Manhattan, Queens, and Staten Island) to use up to $255 per month of pre-tax income to purchase qualified transportation fringe benefits. The law covers temporary employees as well, so long as they meet the 30 hour workweek requirement. The purpose of the law is to benefit employers and employees by offering savings in payroll taxes and monthly expenses.

The NYCCBL specifically requires employers to provide employees with a written notice to use pre-tax income for these commuter benefits. Under the new law, employers must also maintain for a two-year period accurate records confirming such notices have been provided to employees and documenting the employee responses to those notices.

Although the NYCCBL went into effect in January 2016, only employers who do not comply with the law after the July 1, 2016 deadline will be subject to sanctions. First-time violators are afforded a 90-day cure period before penalties are imposed. A first-time violator that does not remedy the violation within this 90-day period will be subject to an initial fine of between $150 and $250. Thereafter, an additional $250 fine may be imposed for each subsequent 30-day period of noncompliance. The New York City Department of Consumer Affairs ("DCA") is responsible for enforcing the NYCCBL and all reports of noncompliance with the law can be made to the DCA.

Certain employers are exempt from the NYCCBL. These employers include those that qualify for a hardship exception, but only if the employer can show compelling evidence that compliance with this new law would create "a financial hardship for such employer." Other employers exempt under this law are those employees covered by a collective bargaining agreement, government entities and employers who are not under any obligation to pay federal, state and city payroll taxes.

For more information on Meyer Suozzi's Employment Law practice, click here.

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