

FTFA: FMLA's Baby Sister?

By Lesley Sifers, Tax Favored Benefits, Inc.

Have you heard about FTFA? It's the Family Time Flexibility Act (H.R. 1119) – commonly known as the “Comp Time Bill.” There hasn't been much in the news about this bill and that's the problem. After all, the Family and Medical Leave Act was passed while most of us were worrying about something else.

This potential new law is being touted as a “win-win” for employees and employers. Employers will be allowed to give comp time instead of paying overtime – something that is currently illegal in the private sector. Details aren't clear at this point but the idea is that employees could work unpaid overtime and “bank” the hours at time-and-a-half (up to 160 hours per year). Unused hours would be cashed out at year-end. Of course, employers will need written policies and hours tracking systems in order to make this work.

Similar legislation was introduced in 1997 under President Clinton but organized labor had more influence at that time and was instrumental in defeating the bill. The argument was that some employers would use the law as an excuse to work their employees to death without compensation (thus reducing union dues income).

Under the FTFA, you would not be required to allow comp time but I'm not sure that makes much difference. In the end, all employers (regardless of size or resources) must compete for workers. If you don't offer similar benefits as other businesses, you may end up with employee relations' problems and difficulty in hiring and keeping people, etc. For example, agricultural employers aren't required to pay overtime on forty hours a week for certain employee classes, but many of you do so because it's standard in your community. So, if a lot of employers start allowing comp time, most other employers will be pressured to do so as well.

I'm an employee – not a business owner – and sure, I'd love a deal like the FTFA. Those half hours I stay over, the short lunch, coming in a few minutes early all add up. I could take a longer vacation with pay! Or perhaps I could leave early every day during the holiday season to get my shopping done? The problem is, how can my employer run the business without knowing what hours employees “choose” to work? And, if my employer cannot maintain enough staff to care for our clients, what are my long-term employment prospects? Dismal, at best.

That's why I call this bill FMLA's baby sister. The FMLA has caused more lawsuits in 2001 and 2002 than any other legislation, including the Americans with Disabilities Act. It's only going to get worse if the Family Time Flexibility Act is stacked on top of the FMLA. Is there really a need for this kind of legislation? Most employers I work with, including my own, already allow employees some flexibility with hours. When people take advantage, it becomes an attendance problem and rightly so.

Thanks to all who are still requesting the Performance Evaluation form. If you received the form by e-mail, remember that you can tailor it to your needs. Are you using it? I'd like to know what you think. Contact me at 800-683-3440 or lesley@taxfavoredbenefits.com.