

Taming the Time-Off Tiger Paid Time-Off

By Lesley Sifers, Tax Favored Benefits, Inc.

Last month, I discussed legal, administrative and employee management issues surrounding time-off. This month, I hope to provide ideas for improving time-off policies and procedures. (You may not tame that tiger but you might be able to get it back into its cage!)

Many companies offer both paid vacation and a limited sick pay benefit. For example, an employee with one year of service might receive one week of vacation and two or three paid sick days. Vacation time usually increases with length of service but sick days do not. Is there a logical reason to differentiate between vacation and sick time? Is there any value in listening to an employee fake an illness? Would it break the bank to combine vacation and sick pay into one benefit?

Combining these benefits is one advantage of a “Paid Time-off” (PTO) program. In a PTO plan, employees are granted a certain number of days (or hours) to be used during a fixed benefit year. Benefits amount can be tied to years of service as in a traditional plan. All time away from work (vacation, illness, personal) is then charged to that employee’s PTO. In essence, this is a “no-fault” attendance policy. Employees don’t have to be on vacation or ill to take time-off.

Pre-scheduling is required for planned absences such as vacation, planned medical treatment or purely personal reasons, such as parent/teacher conferences. Most other absences, including lateness, are automatically deducted from PTO. Setting a minimum deduction amount is recommended to reduce administration. For example, you could set a minimum of two or four hours and deduct time-off that is equal to or greater than the minimum amount. You can also require employees to take a full day off if a planned absence is going to take most of the day. For example, if you set a minimum of four hours, you could require an employee to take the entire day off if the absence will be greater than four hours.

A PTO plan works equally well for exempt and non-exempt employees. As you know, an exempt, salaried employee cannot be docked pay for absence unless it’s for purely personal reasons and then only in full day increments. With a PTO, you are permitted to “draw down” time in hourly increments. There are some types of absence that cannot be deducted from PTO unless the employee chooses to do so. Under USERRA, you cannot require an employee to use PTO (or vacation) for military duty. Jury duty is another situation covered by individual state law. In some states (Nebraska, for instance), you must pay employees who are called to jury duty. In any state, however, it’s probably not a good idea to REQUIRE employees to use PTO for jury duty.

Automatically drawing down PTO is a first step in taming the tiger. If you administer the program properly, there should be less unused time at the end of your benefit year. In addition, you can prohibit carryover or limit it to a small amount. In my company, we can carryover two days but this does not accumulate. For example, if I carried over two days every year for ten years, I would still have only two days of carryover – not twenty.

Implementing PTO requires making decisions. Even though this could be a way to make life easier for everyone, many companies are reluctant to change. One stumbling block is large amounts of unused vacation currently on the books. It’s an employee relations’ nightmare (not to mention, possibly illegal in your state) to simply erase that and start over. One option is “buyout” which would be popular with

employees, I'm sure. Put a pencil to it and discuss the cost with your accountant. There could be some hidden benefits to your bottom line that only your accountant can explain.

A second option is "freezing." This won't be as popular with employees but, if you give sufficient notice that you will be changing your methods, employees may be able to use some of their banked time. With freezing, no PTO is granted until current banked time is drawn down to the annual benefit level plus any allowed carryover. For example, an employee with eight years of service has accumulated five weeks (25 days) of vacation. Under PTO, the benefit at eight years is thirteen days annually plus carry over of two days (15 days). This employee receives no further benefit until the current level of PTO is down to fifteen days in a benefit year.

Look at special situations such as new hires to pro rate their benefit and place them in the program. For example, with a calendar benefit year, someone hired mid-year would be eligible for a 50 percent benefit. Many of you impose a one-year waiting period for paid time-off. I don't agree with this approach because an argument can be made that PTO granted after a year is actually for the preceding year. I think employees could argue, at termination, that they are due compensation for that unused time (if any) as well as current year time.

Even if you do not implement a PTO program, you can use some of these ideas to manage your current system. Review the language in your employee manual. Avoid words such as "earned" or "accrued" vacation. Make sure that sick leave is described as an annual benefit, available by occurrence only and does not accumulate.

Explain that, in the event of termination, current year unused benefits are paid on a pro rate basis. This works best if you have a standard benefit year and have clearly stated that the benefit is to be used during the year. If someone terminates in June, for example, and has not used any vacation, you pay 50 percent of the benefit - rather than 100 percent. If they have already taken the time-off, you would owe nothing.

Keep in mind, too, that the reason for termination doesn't matter. I see many handbooks with policies pertaining to loss of unused time-off in the event of discharge or, in some times, if the employee fails to give notice. Such policies are not legal in most states.

As you can see, there is a lot to think about with time-off benefits. It may prove difficult to get a handle on the problem since you don't see it every day. It's not like health insurance premiums with a monthly price tag. If you would like to discuss how to tame your company's tiger, you are welcome to contact me via the HR Help Line at 800-683-3440 or by e-mail at lesley@taxfavoredbenefits.com.