

U.S. Department of Labor Announces "PAID" Program To Encourage Wage Violation Settlements

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The Wage and Hour Division of the U.S. Department of Labor recently announced that it intends to implement a six-month pilot program, known as the Payroll Audit Independent Determination program, or "**PAID**." This program is intended to allow employers to resolve possible minimum wage and overtime violations without litigation and without requiring employers to pay liquidated damages or other penalties.

While the complete details of the program have not been announced, the general concept is that participating employers will provide information that will be used to calculate wages due to employees. Employees then will receive notice of the amount to be paid and will be given the option to accept the payment in exchange for a release of claims under the federal Fair Labor Standards Act against the employer. Employers should note that "the releases are tailored to only the identified violations and time period for which the employer is paying the back wages" under the terms of the program. Thus, employers likely will not be able to obtain a release covering possible state or local minimum wage obligations where the federal minimum wage is lower or a general release of other types of claims (e.g., discrimination, breach of contract, etc.).

Similarly, if a state or local law has a longer statute of limitations than under federal law, the employer could remain exposed to a claim even after settling with employees. Employers should also consider possible repercussions under local "wage theft" ordinances or similar laws, such as ordinances in Cook County, Illinois or the City of Chicago, where findings

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that employers failed to pay wages could create additional liabilities. For these reasons, employers should view the PAID program with cautious optimism and carefully consider the possible legal risks of participating in this program.