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## Colorado Family and Medical Leave Insurance Program (FAMLI)

In November of 2020, Colorado voters approved a new paid Family and Medical Leave Insurance (FAMLI) program through Proposition 118. This program gives all Colorado workers access to paid leave during life circumstances that hinder their abilities to work. So, what does this mean for employers?

Beginning January 1, 2023, employers are required to begin deducting these premiums from employees' wages. The premiums are currently at a rate of 0.9% of the employee's wage split 50/50 between the employer and employee. This means starting with the first payroll run on or after January 1, 2023, if you are an employer of Colorado employees you must withhold 0.45% of the employee's wages on each paycheck for the FAMLI program. Premiums are deducted on wages up to the Federal Social Security Wage Cap of \$160,200 for earnings in 2023.

Employers of all sizes are required to register with the FAMLI Division before the end of the first quarter in 2023. For employers with nine or fewer employees (9 or less employees) they may opt out of the 0.45% employer premium. Even so, these employers are still required to deduct the 0.45% employee portion of the premium. Premiums must be remitted to the Division by the end of each quarter. Premium deductions are required to begin January 1, 2023, while FAMLI benefits will not be available to employees until 2024. This premium impacts all employees including full-time, part-time, and seasonal employees.

Are you self-employed? Self-employed workers are not required to participate in the program. Although not required, self-employed workers may voluntarily opt into the FAMLI program. Once you opt into the program as a self-employed worker, you must report your income and remit premiums for a minimum of three years to ensure workers are not only opting in when leave is foreseeable. Self-employed workers may opt in at any time and may apply for leave any time following benefit availability in 2024. No action is needed to opt out of the program as a self-employed individual.

Businesses will use the My FAMLI+ Employer portal to register and manage their FAMLI accounts. You may access the portal and gather additional information at <https://famli.colorado.gov>.

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## Your Annual Reminder to File Worker 1099s

This is our annual reminder that if you use workers other than employees to perform services for your business and pay them \$600 or more for the year, you are required to issue each one a Form **1099-NEC** after the end of the year to avoid facing the loss of the deduction for their labor and expenses. The 1099s for 2022 must be provided to workers no later than January 31, 2023.

The requirement to file Form 1099-NEC may also apply to landlords considering the 20% pass-through deduction (Sec. 199A deduction) for business income. The IRS, in regulations for this tax code section, cautions landlords that to be treated as a trade or business (and therefore to generally be eligible for the 199A deduction), they should be reporting payments to independent contractor service providers on IRS Form 1099-NEC.

It is not uncommon to, say, have a repairman out early in the year, pay them less than \$600, and then use their services again later and have the total for the year exceed the \$600 limit. As a result, you could easily overlook getting the necessary information, such as their complete name and tax identification number (TIN), to file the 1099s for the year. Therefore, it is good practice to have unincorporated individuals complete and sign the IRS Form W-9 the first time you use their services. Having properly completed and signed Form W-9s for all independent contractors and service providers eliminates oversights and protects you against IRS penalties and conflicts.

The government provides IRS Form **W-9** as a means for you to obtain the data required to file 1099s for your vendors, contractors or service providers. This data includes the individual's name, address, type of business entity and TIN (usually a Social Security number or an Employer Identification Number) as well as certifications of the ID number and citizenship status. It also provides verification that you complied with the law should the individual provide you with incorrect information. We highly recommend that you have potential vendors, contractors, etc., complete Form W-9 prior to engaging in business with them. The form can either be printed to fill out or completed onscreen and then printed. A Spanish-language version is also available. The W-9 is for your use only and is not submitted to the IRS.

**CAUTION:** 1099-NEC worker reporting does not apply to household workers, as they are considered employees. Call for additional information.

To avoid a penalty, the government's copies of the 1099-NECs must also be sent to the IRS by January 31, 2023. The penalties can be significant, ranging between \$50 and \$290 for each 1099-NEC filed late.

1099-NEC forms must be filed electronically or on special optically scannable forms. If you need assistance with filing 1099-NEC or have questions related to this issue, please give this office a call. You can complete the [1099-NEC worksheet](#) and forward it to this firm to prepare 1099s. Also, make sure you have all of your non-employee workers or service providers complete a Form W-9 for 2022.

Thank you for selecting our firm for your tax and accounting needs. We appreciate the confidence you have shown in us, and we remain ready to assist you at any time.

Scott Jensen  
Kramer & Jensen, LLC

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Kramer & Jensen, LLC  
[sjensen@kramerjensen.com](mailto:sjensen@kramerjensen.com)

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