EARNED SICK TIME ACT – QUESTIONS & ANSWERS (Q&A) SEGMENT

Michigan's **Earned Sick Time Act (ESTA)** significantly changes sick leave requirements for employers (and employees) across the state. Below is a concise Q&A summary of how the law operates, based on guidance from the Michigan Department of Labor and Economic Opportunity (LEO).

📋 Coverage & Eligibility

Q: Which employers are covered by the ESTA?
A: Nearly **all Michigan employers, with 1 or more employees,** are covered. The only main exception is the U.S. Federal Government.

Q: Which employees are eligible to accrue and use sick time?
A: All Michigan-based workers are covered. This includes **full-time, part-time, seasonal, temporary, hourly, and salaried employees**.

⏱️ Accrual, Caps, and Carryover

Q: How is sick time calculated under the accrual method?
A: Employees accrue a minimum of **1 hour of sick time for every 30 hours worked**. For overtime-exempt salaried employees, the law presumes they work 40 hours per week unless their normal schedule is less.

Q: What are the yearly usage caps?
A: The caps depend on the employer's size:

- **Large Businesses (10+ employees):** Must provide up to **72 hours of paid** sick time per year.
- **Small Businesses (Fewer than 10 employees):** Must provide up to **40 hours of paid** sick time, plus an additional **32 hours of unpaid** sick time per year (totaling 72 hours).

Q: Does unused sick time carry over to the next year?
A: Yes. All accrued, unused sick time will carry over to the following benefit year. *No accrued time will be paid out at the end of the calendar year.

Q: Does unused sick time expire or reset?
A: Yes. The accrued EST time will reset to zero when a layoff lasts for more than 2 months. The State of Michigan adheres to a strict two-month limit.

The 2-month threshold defined under Michigan's Earned Sick Time Act (ESTA):

1. The employer is **not legally required to reinstate** any unused sick time the employee had if 2 months have elapsed.
2. The employee will **start fresh with a zero balance** upon their return to work.
3. The employee will begin accruing new sick time at the standard rate of **1 hour for every 30 hours worked** from their return date forward.

Q: Is there terminology, in relation to the ESTA law, that says accrued hours can be extended past the 2-month layoff reset time?
A: No, **there is no language or terminology within Michigan's Earned Sick Time Act (ESTA) that allows or provides for an extension of the 2-month reset window.**

The Strict 2-Month Rule

- Under the final amended version of ESTA, the law states that an employer must reinstate previously accrued, unused sick time only if a former employee is rehired or recalled **within 2 months of separation**.
- If a layoff, furlough, or termination lasts **longer than 2 months**, the law explicitly allows the clock to reset. At that point, the returning employee is legally treated as a new hire, meaning they:
    - **Forfeit** their previously accumulated hours.
    - Start over with a **zero balance** for sick time accrual.
    - Can be required to fulfill a new **120-day waiting period** before they are allowed to use any newly accrued sick time.
    - No accrued time will be paid out at the end of employment, or at the end of the calendar year.

💼 Usage and Pay Rates

Q: For what reasons can an employee use ESTA time?
A: Time can be used for physical or mental **illness, injury, or health conditions** (for the employee or their family); **domestic violence or sexual assault** logistics; public health closures of work or school; and school meetings regarding a child's health or disability.

Q: What is the required pay rate for sick leave?
A: It must be paid at the **greater of the employee's regular rate of pay or the Michigan minimum wage**.

Q: Do employers have to pay out unused sick time when an employee leaves?
A: No. The ESTA does not require a payout of unused sick time upon separation or termination of employment.

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🛡️ Notice, Documentation, and Compliance

Q: How much advance notice must an employee provide?
A: If the need is foreseeable, employers can require up to **7 days' advance notice**. If it is unexpected, notice must be given as soon as practicable, **within 7 days**.

Q: Can an employer demand a doctor's note?
A: Only if the employee is absent for **more than 3 consecutive days**.

Q: What are the record-keeping and notice requirements?
A: Employers must **retain records of hours worked and sick time used for 3 years**, post required labor compliance posters in the workplace, and provide written notices to employees upon hire.

Q: In Michigan, does accrued EST hours need to be displayed?
A: No, Michigan's Earned Sick Time Act (ESTA) does not strictly require employers to display an employee's current accrued sick time balance on their pay stubs or wage statements.

*Unlike some other states (such as California or Washington) that mandate real-time sick leave balances be printed on every pay stub, **Michigan law does not include this explicit payroll display rule**.

📊 Determining Headcount: The 10-Employee Threshold

Employers' total headcount determines whether they must provide **40 hours** or **72 hours** of annual paid sick time.

- **The "Large Employer" Rule (11+ Employees):** An employer crosses into the large business tier if they maintained **11 or more individuals** on their payroll for **20 or more calendar workweeks** in either the current or the immediately preceding calendar year.
- **Who Must Be Counted:** Employers must count all full-time, part-time, seasonal, and temporary employees.
- **Who is Excluded:** Minors (under the Youth Employment Standards Act), unpaid interns, and truly independent contractors (subject to the stringent "economic reality test") are excluded.

⚖️ The Compliance Choice: Accrual vs. Frontloading

Employers can track sick time using an accrual method:

Feature	Accrual Method
Mechanic	Employees earn **1 hour for every 30 hours worked**.
New Hire Wait	New employees have a **120-day waiting period** before they can use accrued time.
Carryover	Unused time **must carry over** to the next benefit year (capped at 72 hours).
