

Families First Coronavirus Response Act

This document provides details about paid leave for employers and employees under the FFCRA. Employer obligations begin April 2, 2020.

There are different paid leave types because of COVID-19. Payments are based on the reasons that the employees are unable to work. The mandatory paid leave amount varies based on the type of paid leave taken and based on the reason the employee is unable to work.

Under the Act, employers will be eligible for tax credits against FICA based on the amounts of mandatory sick leave paid.

Self-employed individuals who are unable to work because of the COVID-19 emergency will also receive credits against Self Employment Contributions Act (SECA) contributions. If a self-employed individual is also an employee of another employer, the individual cannot double dip.

Mandatory Paid Leave Types

Public health emergency leave/Family leave

- o Under amendments to the Family and Medical Leave Act (FMLA), if an employee takes time off (and is unable to work or telework) to care for a son or daughter under age 18 because the school or place of care has been closed due to COVID-19, the employer must allow the employee to take time off.
- o This time off is unpaid job-protected leave for the first two weeks. During this two-week period, the employee can take other types of paid time off that may be available from the employer or may

be covered under the emergency paid sick leave described below.

- o However, after the first 10 workdays, the employer must provide mandatory paid leave for each day of leave. The paid leave amount is no less than two-thirds of the employee's regular rate of pay based on the employee's normal work schedule but is capped at \$200 per day and is capped at a total of \$10,000 for each employee.
- o Generally, the employee's job must be available upon the employee's return to work

Emergency Paid Sick Leave

- o An employer must provide up to 80 hours of emergency paid sick leave for each day a full-time employee cannot work (or telework) based on one of the six criteria below. Part-time employees get sick leave based on their hours during a normal two-week schedule.
- o The amount the employer must pay depends on the criteria in use:
 1. Employee is subject to federal, state or local quarantine restrictions.
 2. The employee has been advised by a health care provider to self-quarantine due to COVID-19 concerns.
 3. The employee has COVID-19 symptoms and is seeking a medical diagnosis.
 4. The employee is caring for someone under quarantine or self-quarantine as described above.

Source: Holland & Knight, as of March 19, 2020

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5. The employee is caring for a son or daughter if the school or day care provider has been closed due to COVID-19 precautions.
 6. Other similar conditions if posted by the Department of Health and Human Services (HHS).
- o If the individual is unable to work (or telework) because of criteria 1 to 3 above, the amount of paid sick leave is 100% of regular compensation up to a maximum amount of \$511 per day. For criteria 3 to 6 above, the amount of paid sick leave is two-thirds of regular pay with a maximum amount of \$200 per day.

Definitions and requirements

Employer

- o The mandatory paid leave rules apply to employers with fewer than 500 employees.
- o The Department of Labor can exempt small businesses with fewer than 50 employees if the requirements would jeopardize the business as a going concern.

Eligible employee

- o An employee who has worked for the employer for at least 30 days.
- o Employers can exclude healthcare providers or emergency responders from the benefits above.

Requirements

- o Employers must give employees notice that these types of leave are available.
- o Employees must be allowed to use the appropriate types of leave described above before taking any regular paid time off otherwise available to the employee.
- o These paid leave rights expire at the end of 2020.

Employer tax credits

- o The Act includes four new tax credits to help alleviate the cost to employers of the paid leave requirements described above.
 - Payroll credit for required paid sick leave
 - Employers can take tax credits for qualified sick leave wages actually paid in a quarter up to \$200 per employee per day (or \$511 per employee per day for the quarantine reasons listed above) per employee. The aggregate number of days of sick leave considered is limited to the aggregate number of days considered for all preceding quarters minus 10 days.
- o The credit cannot be greater than the payroll taxes for that quarter (reduced by certain other FICA credits) and applies only to wages paid for the period beginning on April 2, 2020 and ending on Dec. 31, 2020.
- o To avoid a double benefit, the employer's gross income must be increased by the amount of the tax credit.

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