



UPDATE:

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

On March 27, 2020, Congress passed and the President signed into law the Coronavirus Aid, Relief, and Economic Security Act (or the "**CARES Act**"), which added to and changed portions of the Families First Coronavirus Response Act ("**FFCRA**"). In addition, the Department of Labor ("**DOL**") has issued guidance to help employers navigate the FFCRA.

This communication is intended to provide a summary of updates to the portions of the FFCRA discussed in our prior communication on this topic. Please note that the CARES Act itself is lengthy and contains many benefits for businesses affected by COVID-19, most of which are outside the scope of this communication. If you have questions regarding this communication or the CARES Act, please feel free to contact us.

DEPARTMENT OF LABOR UPDATES

- **Effective Date:** The DOL has clarified that the effective date of the FFCRA is **Wednesday, April 1, 2020** (not April 2, 2020).
- **Notice Required:** The DOL issued guidance in the form of a Model Notice informing employees of their rights under the FFCRA. **Covered employers must post the Model Notice or its substantial equivalent on or before April 1, 2020.**
 - ❖ The Model Notice can be found here: [Employee Rights: Paid Sick Leave and Expanded Family Medical Leave Under the Families First Coronavirus Response Act \(FFCRA\)](#)
 - ❖ Additional guidance regarding the Model Notice can be found here: [Families First Coronavirus Response Act Notice – Frequently Asked Questions](#)
- **Additional Guidance:** The DOL issued additional guidance regarding the FFCRA and its application, which can be found here:
 - ❖ [Families First Coronavirus Response Act: Questions and Answers](#)
 - ❖ [Families First Coronavirus Response Act: Employer Paid Leave Requirements](#)
 - ❖ [Families First Coronavirus Response Act: Employee Paid Leave Rights](#)

CARES ACT UPDATES

EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT

- **Eligible Employees:** The CARES Act amends the EFMLEA's definition of "eligible employees" to include certain employees who were laid off and then rehired. Specifically, the amended EFMLEA provides that the term "eligible employees" includes employees (i) who were laid off by their covered employer **not earlier than March 1, 2020**, (ii) who worked for the employer for at least 30 of the 60 calendar days prior to layoff, and (iii) who have since been rehired by the employer.
- **Covered Employers:** The CARES Act amends the EFMLEA to provide a mechanism for granting EFMLEA waivers to certain government employers.

EMERGENCY PAID SICK LEAVE ACT

- **Covered Employers:** The CARES Act amends the EPSLA to provide a mechanism for granting EPSLA waivers to certain government employers.

TAX CREDIT UPDATES

The Internal Revenue Service (“**IRS**”), the U.S. Department of Treasury, and the DOL announced a plan to implement the FFCRA-related tax credits for small and midsize businesses to “swiftly recover the cost of providing Coronavirus-related relief.” The IRS plan is available [here](#), and additional information regarding the same is available from the DOL, [here](#).

Notably, instead of having to wait until the end of the quarter to receive tax credits for FFCRA paid leave, employers may retain—instead of depositing or escrowing—federal income taxes, the employee share of Social Security and Medicare taxes, and the employer share of Social Security and Medicare taxes with respect to all employees. If there are not sufficient payroll taxes to cover the cost of qualified sick and child care leave paid, employers may file a request for an accelerated payment from the IRS. The IRS expects to process these requests in two weeks or less. The details of this new, expedited procedure will be announced anytime.

The CARES Act also provides additional tax benefits, including but not limited to:

- ❖ employee retention credits;
- ❖ postponement of employer payroll taxes;
- ❖ suspension of certain changes to loss provisions made by the Tax Cuts and Jobs Act (“**TCJA**”),
- ❖ accelerated ability for businesses to recover Alternative Minimum Tax credits; and
- ❖ temporary increases to the limitations on interest deductions imposed by the TCJA.

FINAL THOUGHTS

The CARES Act is lengthy and contains a wide variety of benefits for employers, most of which are beyond the scope of this communication. If you have questions or need assistance of any kind related to the CARES Act or the FFCRA, please do not hesitate to contact [Sameer S. Karim](#), [Devon Sharp](#), or [Brenna Lermon](#).



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