

## FEDS PROVIDE RELIEF TO EMPLOYERS FOR COSTS ASSOCIATED WITH FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)

March 21, 2020

### QUICK FACTS

- The Families First Coronavirus Response Act (FFCRA), which became law March 18, will soon require employers with fewer than 500 employees to begin paying employees who cannot work or telework, or who need to take a leave of absence to care for their children, due to certain reasons relating COVID-19.
- The FFCRA implemented a tax credit system under which affected employers can recoup the costs of paying employees for these types of leaves.
- Many small and midsize employers faced with having to make these payments at a time when their businesses are struggling voiced concern that FFCRA pay obligations might force them to close permanently.
- The FFCRA allows companies facing this fate to be exempt from making payments, but provides no details as to how and when exemptions might be granted.
- Federal agencies have announced that immediate credits will be available to fully offset these payments.

The Families First Coronavirus Response Act (FFCRA) addresses specific costs associated with COVID-19 testing and includes several other acts each intended to lessen the severity of the COVID-19 outbreak in certain critical areas relating to employment and health coverage. The well-intentioned law has raised nearly as many questions as it has provided answers, however; especially from small and midsize companies wondering how they can shoulder the new FFCRA costs at a time when they are battling just to stay in business.

On March 20, 2020, the U.S. Treasury Department, Internal Revenue Service (IRS), and the U.S. Department of Labor (DOL) (together the Departments) announced that small and midsize employers can immediately access two new refundable payroll tax credits, designed to immediately and fully reimburse them, dollar-for-dollar, for the cost of providing Coronavirus-related leave to their employees. The Departments assure employers that that they can retain and access funds that they would otherwise pay to the IRS in payroll taxes. Further, if those amounts do not completely cover the cost of FFCRA paid leave, employers can seek an expedited advance from the IRS by submitting a streamlined claim form that it pledges to release next week.

# COMPLIANCE ALERT

The Treasury Department requires all employers to withhold from their employees' paychecks federal income taxes and the employees' share of Social Security and Medicare taxes. Employers then must deposit these federal taxes, along with the employers' share of Social Security and Medicare taxes, with the IRS and file quarterly payroll tax returns with the IRS.

Under guidance to be released next week, eligible employers who pay qualifying sick or child care leave under the FFCRA (COVID-19 leave) will be able to retain an amount of their otherwise required payroll taxes in an amount that equals the amount paid for COVID-19 leave that they paid, rather than depositing it with the IRS. Applicable payroll taxes include withheld 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 COVID-19 leave, employers will be able to file a request for an accelerated payment from the IRS. The IRS expects to process these requests in two weeks or less.

This Departmental relief is welcome news for many employers who may be better able to stay afloat while helping ensure their employees need not make the choice between fighting COVID-19 and collecting a paycheck. There will be many more details, and likely other legislation, regarding how the COVID-19 pandemic will impact employers and their workforces. We will continue to monitor the rapidly shifting situation and provide you with information as soon as it becomes available.

We reiterate to all of our clients and friends to stay safe and be well as we all work together during this extraordinary time.

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