



CERTIFIED PUBLIC ACCOUNTANTS

TAX • AUDIT • ADVISORY

TAX ALERT – MARCH 23, 2020

The Families First Coronavirus Response Act

On March 18, 2020, the President signed into law the Families First Coronavirus Response Act (the “Act”). Generally, this provides that employers with fewer than 500 employees (employers with fewer than 50 employees are exempted from these requirements when the imposition would jeopardize the viability of the business as a going concern) will be required to pay for certain (A) family leave; and (B) sick leave.

Employers will be compensated for these payments with a tax credit against the federal income tax portion of Social Security and Medicare taxes, the amount of federal income tax and Social Security and Medicare taxes withheld from employees with a refundable credit for the excess.

Next week the IRS will be providing a form for employers to request an expedited refund which the IRS expects to process in two weeks or less.

This Tax Alert provides some of the general provisions of the Act. Please be aware that there are numerous definitions and details within the Act that are not addressed here. To ensure you are meeting the requirements of providing payments to employees for Family Leave and Sick Leave please refer to the Act itself or coordinate with your payroll provider. This Alert is meant as a guide for the tax credit to which employers are entitled.

A. Family Leave

This applies to any employee unable to work (or telework) due to the need to care for their son or daughter under 18 years of age if the school or place of care has been closed or the child care provider (a provider who receives compensation for providing child care on a regular basis) is unavailable, due to a public health emergency (COVID-19).

The first 10 days of leave by employee is unpaid leave. The employee can elect to substitute accrued vacation, personal leave or medical or sick leave. The employer shall provide paid leave for each day of leave that an employee takes after taking 10 unpaid days for an additional 10 week period.

The amount of paid leave for an employee is not less than $\frac{2}{3}$ rd of the employee’s regular pay and the number of hours the employee normally works. However, the paid leave shall not exceed \$200/day and \$10,000 in the aggregate.

© Funaro & Co., P.C., 2020. All rights reserved.

This memorandum was prepared for clients of Funaro & Co. to report on recent tax developments. The information in it is therefore general and should not be considered or relied on as tax advice.



Family Leave – Employer Credit

The employer is entitled to a credit for the family leave paid as defined above. Employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period (see below for calculation of this cost).

B. Sick Leave

The Act provides that employees of eligible employers can receive two weeks (up to 80 hours) of paid sick leave at 100% of the employee's pay if the employee is unable to work (telework) due to a need for leave because:

- 1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- 2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- 3) The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.
- 4) The employee is experiencing any other substantially similar condition.

The Act provides that employees unable to work for the following reasons can also receive two weeks (up to 80 hours) of paid sick leave at $\frac{2}{3}$ rds the employee's pay.

- 5) The employee is caring for an individual who is subject to an order described in (1) or has been advised as described in (2).
- 6) The employee is caring for a son or daughter of such employee if the school or place of care has been closed or the child care provider of such son or daughter is unavailable, due to COVID-19.

A part-time employee is eligible for a number of hours equal to the number of hours that the employee works, on average, over a 2-week period.

For an employee who is unable to work for the reasons reflected in items (1) through (4) above, the employer shall pay the employee's regular rate of pay, up to \$511 per day and \$5,110 in the aggregate, for a total of 10 days.

For an employee who is caring for someone for the reasons reflected in items (5) and (6) above, the employer shall pay $\frac{2}{3}$ rds of the employee's regular rate of pay, up to \$200 per day and \$2,000 in the aggregate, for up to 10 days.

Employers are entitled to receive a credit for the amounts paid employees for sick leave plus an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period (see below for calculation of this cost).

Applying for the Credit

The employer can obtain the amount of credit by reducing the employer's and employee's FICA and Medicare and the federal income tax withheld from the employee, for each calendar quarter equal to 100% of the qualified leave or sick leave wages paid by the employer for that calendar quarter.

The amount of qualified wages generally corresponds with the amount of wages employers are required to provide.

Refund of excess credit

If the amount of the credit exceeds the limitation for any calendar quarter, the excess is treated as an overpayment that is refunded. The IRS will be providing employer's with a form to request an expedited refund.

Health Care Expenses

The amount of the credit allowed is increased by so much of the employer's qualified health plan expenses as are properly allocable to the qualified sick leave wages for which a credit is allowed (to the extent the health plan expenses are not added to an employee's pay).

Self-Employment

There is a similar credit against self-employment tax for an amount equal to the qualified sick leave and family leave.

Examples of Employer Credit - Per IRS Guidance

If an eligible employer paid \$5,000 in sick leave and is otherwise required to deposit \$8,000 in payroll taxes, including taxes withheld from all its employees, the employer could use up to \$5,000 of the \$8,000 of taxes it was going to deposit for making qualified leave payments. The employer would only be required under the law to deposit the remaining \$3,000 on its next regular deposit date.

If an eligible employer paid \$10,000 in sick leave and was required to deposit \$8,000 in taxes, the employer could use the entire \$8,000 of taxes in order to make qualified leave payments and file a request for an accelerated credit for the remaining \$2,000.