



CLIENT ALERT EMPLOYMENT & LABOR

Emergency Sick Leave and Family Sick Leave Employer Tax Credits

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We previously advised [here](#) about employers' new paid sick leave and family leave obligations under the Families First Coronavirus Response Act ("Act" or "FFCRA"). Generally, employers with fewer than 500 employees must provide paid sick leave and paid family leave to employees under certain circumstances related to the COVID-19 crisis. The effective date of the Act is April 1, 2020 and the Act expires December 31, 2020.

The Act includes a new federal tax credit for employers to offset the wages paid for sick leave and family leave obligations under the Act. Specifically, an employer can collect a tax credit equal to 100 percent of qualifying sick leave and family leave payments required by the Act as follows.

Paid Sick Leave

- Up to \$511 per day (\$5,110 aggregate per calendar quarter) for employee taking leave for themselves due to quarantine or isolation order or because employee has been advised by a healthcare provider to self-isolate or is experiencing COVID-19 symptoms and is seeking a diagnosis.
- Up to \$200 per day (\$2,000 aggregate per calendar quarter) for employee who is caring for a family member who is quarantined or showing symptoms of COVID-19 or caring for a child whose school or place of childcare is closed or if the childcare provider is unavailable.

Paid Family Leave

- Up to \$200 per day for which an employee is paid qualified family leave pay (aggregate of \$10,000 per employee).

Employers subject to the Act can claim the tax credit on a quarterly basis (presumably this will be done on the employer's quarterly payroll tax return) against the employer's share of Social Security and Medicare taxes. If the amount of an employer's tax credit exceeds the employer's payroll tax liability for a quarter, the employer may treat the excess as an overpayment and claim a refund. While the payroll tax credit will be applicable on a quarterly basis in 2020, the refund appears likely to be paid out in 2021. The tax credit will be limited to the amounts required to be paid under the new law; excess payments will not be reimbursed. Additionally, to prevent a double benefit, tax credits claimed by an employer under the Act are includable in the employer's gross income for the taxable year.

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The Wisler Pearlstine team of employment attorneys is ready to address your COVID-19 questions and concerns. Please contact any of us if you have concerns about the impact of COVID-19 in the workplace.

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