

EMPLOYER TAX CREDITS UNDER THE FIRST FAMILIES CORONAVIRUS RESPONSE ACT

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The Families First Coronavirus Response Act

- Effective Date: April 1, 2020
- The Emergency Family and Medical Leave Expansion Act (EFMLEA)
- The Emergency Paid Sick Leave Act (EPSLA)
- Tax Credits for Paid Sick and Paid Family and Medical Leave

The Emergency Family and Medical Leave Expansion Act (EFMLEA)

- New Employee Leave Benefit
- Covered Employers
- Eligible Employees
- Health Care Employees



The Emergency Family and Medical Leave Expansion Act (EFMLEA)

- Work Availability Standard
- Intermittent Leave
- Available Benefits
- Coordination with Employer Current Policies

The Emergency Paid Sick Leave Act (EPSLA)

- Covered Employers
- Eligible Employees
- 6 Reasons for Leave



The Emergency Paid Sick Leave Act (EPSLA)

- Employees unable to work (or telework) due to a need for leave because:
 1. Government Order;
 2. Advice by Health Care Provider to Self-Quarantine;
 3. Experiencing symptoms of and seeking a medical diagnosis;
 4. Employee is caring for an individual;
 5. Child's school or place of care has been closed;
 6. Employee is experiencing any other substantially similar condition.

The Emergency Paid Sick Leave Act (EPSLA)

- Benefits granted depend on status
- Full-time employees
- Part-time employees

The Emergency Paid Sick Leave Act (EPSLA)

- If using the leave due for reasons (1 through 3) relating to government isolation order, health care provider advice, or experiencing symptoms, the employee benefit is:
- Rate: The is highest rate of the following: the employee's regular rate of pay; minimum wage under FLSA; or minimum wage under State or local law in which employee is employed.
- Cap: Up to \$511 per day and \$5,110 in the aggregate.

The Emergency Paid Sick Leave Act (EPSLA)

- If using the leave for reasons (4 through 6) relating to caring for an individual who is subject to a quarantine order or advice of a health care provider, caring for a child due to school or provider is closed, or employee is experiencing similar conditions, the benefit is:
- Rate: Two-thirds of the amount otherwise paid for reasons (1) – (3)
- Cap: Up to \$200 per day and \$2,000 in the aggregate.

The Emergency Paid Sick Leave Act (EPSLA)

- Interplay with current employer policies
- Employer Penalties - FLSA



Employer Tax Credits

- Taxable
- Non-Profit
- Government exclusion



Employee Retention Credit

- Credit equal to 50%
- Includes health care costs
- For wages paid after March 12, 2020, and before January 1, 2021
- Maximum credit is \$5,000 per employee

Employee Retention Credit

- Employers eligible for the credit
- Must fully or partially suspend operations during any 2020 calendar quarter; or
- Significant decline in gross receipts
- Governmental employers are not eligible

Employee Retention Credit

- Included in the CARES Act
- Partially suspended operations defined
- Significant decline in gross receipts defined
 - 2020 Example

Employee Retention Credit Determination of Maximum Credit

- Credit equal to 50% of qualified wages
- “Qualified wages” defined
- 100 full-time employees



Employee Retention Credit 100 Employees

- Average more than 100 employees in 2019
- Average 100 or fewer employees in 2019
- CARES Acts does not require payment of wages

Employee Retention Credit

- Credit against employment taxes
- Credit is fully refundable
- Can use payroll taxes already set aside to pay qualified wages
- Advance of refundable credit
- No double dipping – FFCRA/Retention/PPP

Credits for Self-Employed Individuals

- Eligible self-employed individual defined
- Qualified sick leave benefit
- Average daily self-employment income
- Offset if also an employee of an Eligible Employer

Reporting Issues

- 2020 Form W-2
- Form 7200 – Advance Payment

