



## Family First Coronavirus Response Act

On March 18, 2020, President Trump signed the Families First Coronavirus Response Act to provide affected individuals with paid sick and family leave and create tax credits for employers effected by the coronavirus. Effective 15 days after enactment (March 18, 2020), the Act creates a new category of benefits available until December 31, 2020. Please find the highlights of the new law below.

### **Emergency Paid Sick Leave**

Private sector employers with fewer than 500 workers and all public sector employers will be required to provide paid sick leave (two weeks for full-time employees and average hours over a two-week period for part-time employees) through the end of the year if an employee is unable to work as a result of an isolation or quarantine order or advisory, experiencing COVID-19 symptoms or to care for a family member or for a child whose school or place of care is closed due to a public emergency. Subject to certain limitations, the bill provides an employer payroll tax credit that equals 100% of the qualified sick leave wages paid by the employer effective for sick leave wages paid starting on a date within 15 days of enactment (March 18, 2020) and through Dec. 31, 2020.

### **Emergency Family and Medical Leave**

Private sector employers with fewer than 500 workers and government entities must provide as many as 12 weeks of job-protected leave to employees to care for a child whose school or place of care is closed. The first 10 days could be unpaid, although a worker could choose to use other accrued leave. Employers will generally be required to pay employees two-thirds of their wages, not to exceed \$200 per day / \$10,000 in the aggregate, when an employee is unable to work or telework due to a need for leave to care for a son or daughter under age 18 because the school or place of care has been closed, or the child care provider is unavailable, due to a public health emergency related to COVID-19. Note that employers with fewer than 50 employees can be exempted from the requirement.

### **Tax Credits for Sick and Family Medical Leave**

Subject to certain limitations, employers will receive a 100% refundable payroll tax credit on the wages required to be paid under such leave and additional health benefit contributions.

Specifically, employers are entitled to a refundable tax credit equal to 100% of the qualified emergency sick leave wages paid by employers for each calendar quarter, \$511 per day, if an employee is taking the qualified sick leave to care for themselves, for up to 10 days per employee in each calendar quarter, or \$200 per day, if an employee is taking the qualified sick leave to care for another individual, for up to 10 days per employee in each calendar quarter.

The qualified Emergency FMLA Leave wages paid by employers for each calendar quarter are capped at \$200 per day, for each individual, up to \$10,000 per calendar quarter. Also, any additional wages paid due to the leave requirement will not be subject to the employer portion of Social Security/Medicare (FICA) tax.

Please note that the amount of the credit for any calendar quarter generally could not exceed the tax imposed under Code section 3111 (employer portion of social security taxes) or Code section 3221(a) for such quarter. However, the bill includes refundability provisions for credits that exceed tax liability.

### **Self-Employed Individuals**

The bill also provides eligible self-employed taxpayers with a refundable credit against income tax for qualified sick leave equivalent amounts. An eligible self-employed individual is an individual who regularly carries on any trade or business (as defined in Sec. 1402) and would be entitled to receive paid leave under the Emergency Paid Sick Leave Act if the individual were an employee.

*Note that we expect further guidance to come from Congress and the Social Security Administration shortly and we will provide updates accordingly. We will continue to monitor any related developments and please contact your [Bennett Thrasher tax advisor](#) with any questions.*