

## Payroll Tax Relief Under the Families First Coronavirus Response Act

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The newly enacted Families First Coronavirus Response Act (the “Act”) generally requires covered employers to provide paid sick leave and expanded Family Medical and Leave Act leave for COVID-19 (“Coronavirus”) related reasons. Koley Jessen’s summary of the Act, including an explanation of which employers are considered “covered employers” and specifics on the leave provisions, may be found [here](#).

The Act provides two new refundable payroll tax credits for covered employers to help reimburse them for providing leave to their employees under these new provisions. On March 20, 2020, the U.S. Treasury Department, Internal Revenue Service, and U.S. Department of Labor announced plans to implement Coronavirus-related paid leave for workers and tax credits for covered employers to recover the cost of providing Coronavirus-related leave.

### **Paid Sick Leave Credit**

For an employee who is unable to work or telework because the employee is subject to a quarantine or isolation order, or because the employee is seeking medical attention for Coronavirus symptoms, covered employers may receive a refundable credit for sick leave at the employee’s regular rate of pay, up to \$511 per day and \$5,110 in the aggregate, for a total of 10 days.

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For an employee who is caring for a family member who is self-quarantining, or caring for a child under 18 if the child's school or place of care has been closed, covered employers may claim a credit for two-thirds of the employee's regular rate of pay, up to \$200 per day and \$2,000 in the aggregate, for up to 10 days. Covered employers are entitled to an additional tax credit based on their costs to maintain health insurance coverage for the eligible employee during the leave period.

### **Child Care Leave Credit (Related to Expanded FMLA Leave)**

For an employee who is unable to work because of a need to care for a child whose school or child care facility is closed or whose child care provider is unavailable due to the Coronavirus, covered employers may receive a refundable child care leave credit. This credit is equal to two-thirds of the employee's regular pay, capped at \$200 per day or \$10,000 in the aggregate. Up to 10 weeks of qualifying leave may be counted towards the child care leave credit. Covered employers are entitled to an additional tax credit based on costs to maintain health insurance coverage for the eligible employee during the leave period. The child care credit is in addition to the paid sick leave credit.

### **Credit Through Otherwise Payable Payroll Taxes**

Under guidance expected later this week, covered employers who pay qualifying sick or child care leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and child care leave that they paid, rather than making full deposits with the IRS through the normal payroll deposit process. Payroll taxes that may be retained 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, not just the employees subject to the applicable leave.

If the retained amount is insufficient to offset an employer's cost of qualified sick and child care leave, covered employers will be able to file a request for an accelerated payment from the IRS. The IRS has announced that it expects to process these requests in two weeks or less. The details of this new, expedited procedure are forthcoming.

### **Effective Date**

While covered employers may claim these credits for qualified leave payments made before December 31, 2020, there remains a question as to when covered employers may start taking the credits. The Secretary of the Treasury has the authority to select the effective date for the payroll tax credits between the date of enactment of the Act (March 18, 2020) and the effective date of the Act (April 1, 2020). Once announced, Koley Jessen will update this publication.

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Koley Jessen continues to monitor the situation and stay current on the federal and state tax issues facing businesses and individuals. If you have additional questions or concerns as the situation develops, please contact a member of the Koley Jessen Tax Practice Group.

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