



## EMERGENCY LEAVES UNDER THE FFCRA

- The Families First Act Coronavirus Response Act's (FFCRA) **opt-in or opt-out** tax credit provisions have been extended.
  - The opt-in period is for the timeframe of April 1, 2021 to September 30, 2021.
- Starting on April 1, 2021, the Emergency Paid Sick Leave (ESPL) hours and dollar amounts paid to employees under the FFCRA will reset. This means that employees who previously took 80 hours of Emergency Paid Sick Leave under the FFCRA will be eligible for an additional 80 hours to use between April 1, 2021, to September 30, 2021.
- Guidance regarding the reset of the Emergency Family and Medical Leave (EFMLA) has yet to be provided by the Department of Labor. Depending on the interpretation of the law, employees **may** be entitled to receive an additional 12 weeks of EFMLA, if eligible.
- In addition to the six reasons for leave set forth in the FFCRA, the new law added two provisions that will fall under reason number 3. Therefore, employers will also receive tax credits for providing leave to employees who are:
  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 seeking a medical diagnosis,
    - i. obtaining an immunization related to COVID-19 or recovering from any injury, disability, illness, or condition related to such immunization; or
    - ii. seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19, when such employee has been exposed to COVID-19 or the employer has requested such test or diagnosis.
  4. The employee is caring for an individual who is subject to an order as described in number one (1) or has been advised as described in number (2).
  5. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID-19 precautions.
  6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.
- Employers may now also offer EFMLA for all FFCRA-qualifying reasons for leave (i.e., those previously only offered for Emergency Paid Sick Leave, including the two newly added reasons above), and receive a tax credit. Previously under the FFCRA, EFMLA was only available for leave needed to care for a child whose school was closed or whose caregiver was unavailable due to COVID-19.
- The dollar amount of the EFMLA leave cap has been increased to \$12,000 in total, up to \$2,000 from the original \$10,000.
  - Once an employee exhausts the 2 weeks under EPSL, they would then qualify for an additional 12 weeks under EFMLA for a total maximum of 14 weeks of leave.
  - All EFMLA leave is paid at 2/3 of the employee's regular wage of pay, regardless of the qualifying reason for taking EFMLA.
- The tax credit is only available to employers who uniformly provide leave to all employees, without discriminating against certain categories of workers.