

## Coronavirus Tax Relief for Employers

The House-passed bill includes temporary tax relief in the form of a refundable tax credit, in order to compensate employers (with fewer than 500 employees) for the new sick leave and family leave payments they will be required to make to certain employees under the new law.

Tax relief for **sick leave** wages paid by an employer to an employee:

- Employer receives a refundable tax credit against its share of the Social Security portion (as applicable) of the payroll tax.
- The credit is equal to 100% of the amount of sick leave wages paid pursuant to the new law.
- The amount credit is limited to \$200 per day, but can be as high as \$511 per day if the employee is on sick leave for any of the following reasons related to COVID-19:
  - The employee is subject to a federal, state or local quarantine or isolation order;
  - The employee has been advised by a health provider to self-quarantine; or
  - The employee is experiencing symptoms and seeking a medical diagnosis.
- The amount of total hours of paid sick leave is limited by the new law.

Tax relief for **family leave** wages paid by an employer to an employee:

- Employer receives a separate refundable payroll tax credit, with different limitations than the sick leave wage tax credit.
- The 100 percent credit against the employer's share of the payroll tax is limited to \$200 per day, up to an aggregate of \$10,000.

Application of these new tax credits is subject to numerous requirements, limitations and definitions contained in the new law. The tax credits apply within 15 days of the bill's enactment through December 31, 2020.

**General information to keep in mind:**

- The payroll credit can be taken quarterly.
- BUT, the tax credit doesn't start applying UNTIL the date Mnuchin selects himself AFTER the bill is officially enacted. He is supposed to pick that date within 15 days after the enactment of the bill.
- SO, that means sick / family leave payments employers are paying NOW, (before the Mnuchin start date), might not be eligible for the tax credit (unless Mnuchin picks a retroactive date).

## Joint Guidance:

The U.S. Department of the Treasury, the Internal Revenue Service, and the U.S. Department of Labor issued a joint communication about the Families First Coronavirus Response Act.

The announcement included an overview of the Act and noted that small and midsize employers can begin taking advantage of two new refundable payroll tax credits, designed to immediately and fully reimburse them, dollar-for-dollar, for the cost of providing Coronavirus-related leave to their employees.

The announcement also stated that new guidance about when employers will receive their tax credits and refunds is coming soon. Further guidance that will be released next week, eligible 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 deposit them with the IRS. The publication gave examples, which have been included below.

The DOL provided important enforcement guidance and stated that the DOL will not bring an enforcement action against any employer for violations of the Act, for 30 days, so long as the employer has acted reasonably and in good faith to comply with the Act. The Department of Labor will instead focus on compliance assistance during the period.

## Key Takeaways

- Paid Sick Leave for Workers: For COVID-19 related reasons, employees receive up to 80 hours of paid sick leave and expanded paid child care leave when employees' children's schools are closed or child care providers are unavailable.
- Complete Coverage: Employers receive 100% reimbursement for paid leave pursuant to the Act.
  - o Health insurance costs are also included in the credit.
  - o Employers face no payroll tax liability.
  - o Self-employed individuals receive an equivalent credit.
- Fast Funds: Reimbursement will be quick and easy to obtain.
  - o An immediate dollar-for-dollar tax offset against payroll taxes will be provided
  - o Where a refund is owed, the IRS will send the refund as quickly as possible
- Small Business Protection: Employers with fewer than 50 employees are eligible for an exemption from the requirements to provide leave to care for a child whose school is closed or child care is unavailable in cases where the viability of the business is threatened.

## **Examples**

- If an eligible employer paid \$5,000 in sick leave and is otherwise required to deposit \$8,000 in payroll taxes, including taxes withheld from all its employees, the employer could use up to \$5,000 of the \$8,000 of taxes it was going to deposit for making qualified leave payments. The employer would only be required under the law to deposit the remaining \$3,000 on its next regular deposit date.
- If an eligible employer paid \$10,000 in sick leave and was required to deposit \$8,000 in taxes, the employer could use the entire \$8,000 of taxes in order to make qualified leave payments, and file a request for an accelerated credit for the remaining \$2,000.
- Equivalent child-care leave and sick leave credit amounts are available to self-employed individuals under similar circumstances. These credits will be claimed on their income tax return and will reduce estimated tax payments.