

FAMILIES FIRST CORONAVIRUS RESPONSE ACT: KEY EMPLOYMENT PROVISIONS

	WHICH EMPLOYERS?	WHICH EMPLOYEES?	WHAT IS REQUIRED BENEFIT?	WHAT AMOUNT IS PAID?	TAX CREDIT
EMERGENCY PAID SICK LEAVE ACT	<ul style="list-style-type: none"> Employers with fewer than 500 employees The Secretary of Labor has the authority to issue regulations to exempt businesses with fewer than 50 employees from the Emergency Paid Sick Leave Act 	<ul style="list-style-type: none"> Employees who cannot work (or telework) because they: <ol style="list-style-type: none"> are subject to a federal, state, or local quarantine or isolation order related to COVID-19; have been advised by a health care provider to self-quarantine due to concerns related to COVID-19; are experiencing symptoms of COVID-19 and seeking a medical diagnosis; are caring for an individual who is subject to an order described in (1) or has been advised as described in (2); are caring for a son or daughter if the school or place of care for such child has been closed, or the child care provider of such child is unavailable due to COVID-19; or are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of Treasury and the Secretary of Labor Employers of health care providers or emergency responders may elect to exclude such employees from application of the Emergency Paid Sick Leave Act 	<ul style="list-style-type: none"> Full-time employees who cannot work for any of the reasons set forth in the “Which Employees?” column immediately to the left are eligible for 80 hours of paid sick leave Part-time employees who cannot work for any of the reasons set forth in the column immediately to the left are eligible for a paid sick leave equal to the number of hours that such employee works on average over a two-week period Employees are not required to use accrued sick leave or paid time off under any employer policy before the benefits offered under the Emergency Paid Sick Leave Act After the first paid sick day, employees must give employers reasonable notice in order to continue using this paid sick leave time for the full allotment of paid sick leave under this Act 	<ul style="list-style-type: none"> Employees are paid the greater of the employee’s regular rate, the federal minimum wage, or the state or local minimum wage for the number of hours they would otherwise work, not to exceed \$511 per day (and \$5,110 in the aggregate) if the employee is using the paid sick leave for reasons (1) through (3) under the “Which Employees?” column Employees are paid 2/3 of the above calculation for the number of hours they would otherwise work not to exceed \$200 per day (and \$2,000 in the aggregate) if the employee is using the paid sick leave for reasons (4) through (6) under the “Which Employees?” column If a part-time employee’s schedule varies from week to week, then the average number of hours is based on the average scheduled per day over the previous six-month period 	<ul style="list-style-type: none"> Quarterly payroll tax credit for employer up to the paid sick leave caps for each employee (\$511 per day or \$200 per day, as applicable) The number of days taken into account for purposes of the caps on a quarterly basis for each employee shall not exceed 10 over the aggregate number of days taken into account for all preceding calendar quarters This credit also may be increased by the employer’s qualified health plan expenses paid or incurred by the employer to provide or maintain a group health plan to the extent that such amounts are excluded from the gross income of the employees and are properly allocable to the sick leave wages If the tax credit due to the employer is in excess of the employer’s payroll tax liability for the quarter, any overage will be refunded to the employer Not taken into account for purposes of determining any credit allowed under Section 45S of the Internal Revenue Code

EMERGENCY FAMILY
AND MEDICAL LEAVE

<ul style="list-style-type: none"> • Employers with fewer than 500 employees • The Secretary of the U.S. Department of Labor has the authority to issue regulations to exclude healthcare providers and emergency responders from the definition of “eligible employee” and to exempt businesses with less than 50 employees from the Emergency Family and Medical Leave Expansion Act 	<ul style="list-style-type: none"> • Employees who cannot work (or telework) because they are caring for a son or daughter under the age of 18 if the school or place of care has been closed, or the child care provider of such child is unavailable due to a public health emergency • Employers of health care providers may elect to exclude such employees from the Emergency Family and Medical Leave Extension Act 	<ul style="list-style-type: none"> • The first 10 days of this FMLA expanded leave can be unpaid; however, an employee can elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for the unpaid leave during this 10-day period • After the initial 10 days, employees are eligible for 10 weeks of paid leave for a total of 12 weeks of leave, up to certain caps • Employers with fewer than 25 employees do not have to reinstate employees after this leave if the position held by the employee when the leave commenced does not exist due to economic conditions or other changes in operating conditions of the employer that affect employment and that are caused by the public health emergency during the leave, as long as for a one-year period the employer makes reasonable efforts to reinstate the employee to an equivalent position with equivalent terms and conditions of employment 	<ul style="list-style-type: none"> • Employees are eligible for 2/3 of their regular rate of pay based on the number of hours the employee would otherwise be scheduled to work (capped at \$200 per employee per day and \$10,000 per employee in the aggregate) • Similar to the Emergency Paid Sick Leave Act, the six-month lookback method would apply if employees worked a variable schedule from week to week 	<ul style="list-style-type: none"> • Payroll tax credit for each calendar quarter up to 100% of the qualified family leave wages paid by the employer (capped at \$200 per employee per day and \$10,000 per employee in the aggregate) • This credit also may be increased by the employer’s qualified health plan expenses paid or incurred by the employer to provide or maintain a group health plan to the extent that such amounts are excluded from the gross income of the employees and are properly allocable to the sick leave wages • If the tax credit due to the employer is in excess of employer’s payroll tax liability for the quarter, any overage will be refunded to the employer • Not taken into account for purposes of determining any credit allowed under Section 45S of the Internal Revenue Code
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