

## Employment Law Update: Understanding the Federal Families First Coronavirus Response Act in 2021

Providing FFCRA leave now voluntary; tax credits extended through March 31, 2021

01/05/21

The Federal Families First Coronavirus Response Act (FFCRA) required employers with fewer than 500 employees to provide sick and family leave benefits for certain COVID-19 related reasons through December 31, 2020. Many anticipated that the FFCRA's sick and family leave provisions would be extended into 2021 as part of the pandemic relief package that was signed by the President on December 27. However, these provisions were ultimately not extended and employers are no longer required to provide paid leave under the FFCRA after December 31, 2020.

### **FFCRA Employer Tax Credits Available Through March 31, 2021**

Although employers are no longer required to provide employees with FFCRA leave, the December 27 pandemic relief package extends the FFCRA tax credit through March 31, 2021. This credit reimburses private employers for their costs of providing FFCRA leave and employers who voluntarily decide to offer leave may utilize payroll tax credits to cover the cost of benefits paid to employees through the end of March 2021.

Notably, the relief package **does not change** the qualifying reasons for which employees may take leave, the caps on the amount of pay employees are entitled to receive, or the FFCRA's documentation requirements. It also does not affect the amount of leave that employees are entitled to take under the FFCRA. Under the FFCRA, full-time employees are entitled to a one-time allotment of 80 hours of paid sick leave and 12 weeks of expanded family medical leave. Therefore, an employer is not entitled to a second tax credit for an employee taking leave in 2021, if that employee already took leave in 2020. However, if an employer uses the "calendar year" under its FMLA policy, the employer may be eligible to claim a tax credit for the second use of expanded FMLA benefits paid to the same employee in 2021.

Although providing FFCRA leave is now voluntary, employers should be mindful to navigate state and local COVID-19 leave laws that remain in effect, which may—or may not—expire at the conclusion of 2021. For example, New York State's quarantine leave law, which requires that New York employers provide job-protected sick leave to employees who are subject to a mandatory or precautionary order of quarantine or isolation, does not expire at the end of the year.

If you are an employer with a question about this legal blog alert or another employee leave policy question, contact [Tracy Armstrong](#) or another member of the Wilentz [Employment Law](#) team.

#### **Attorney**

- Tracy Armstrong

#### **Practice**

- Employment Law