

Federal Relief Available for Businesses Subject to COVID-19 Legislation

03/26/20

Businesses with 500 employees or less are feeling the financial impact of the new federal laws that require them to provide financial relief to their employees during the COVID-19 pandemic. Assistance is now in sight as the federal government is providing small and medium sized businesses with tax relief to enable small businesses to comply with the new laws.

On March 20, 2020, the [Internal Revenue Service \(IRS\) released regulation IR-2020-57](#), which provides relief for employers who are subject to the Families First Coronavirus Response Act (FFCRA), the new law requiring paid sick leave and expanded paid child care leave for workers for COVID-19 related reasons. The FFCRA allows employees to 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. The IRS is providing complete coverage for the costs of this law to employers, and employers are to receive 100% reimbursement for paid leave pursuant to the FFCRA. The IRS is also easing compliance requirements for employers, who will be provided with a 30 day non-enforcement period for good faith compliance efforts.

The logistics of IR-2020-57 have been formulated to make it easy for businesses to receive monetary credit for complying with the FFCRA. Eligible employers who pay qualifying sick or child care leave will be able to retain an amount of their payroll taxes equal to the amount of qualifying sick and child care leave that they paid pursuant to the FFCRA, rather than pay those monies as taxes to the IRS, as would normally be required. Employers may retain withheld federal income taxes, the employee share of Social Security and Medicare taxes, and the employer share of Social Security and Medicare taxes. Employers should note that they may retain these taxes from all employees, not just those utilizing paid sick leave and expanded family leave, in order that they may cover costs incurred for those of their employees who have utilized paid sick leave and expanded family leave.

If there are not sufficient payroll taxes to cover the cost of qualified sick and child care leave paid, employers may file a request for an accelerated payment from the IRS. The IRS expects to process these requests in two weeks or less.

The IRS provided the following two examples in IR-2020-57:

- 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.

In addition to the above relief, IR-2020-58 has extended the federal income tax deadline to July 15, 2020.

TAKEAWAY: Employers should claim tax credits for reimbursement of its FFCRA paid sick leave and childcare leave costs.

If you are an employer who needs help navigating the FFCRA and/or other employment laws during the COVID-19 crisis, contact [Stephanie Gironda](#) or any member of the Wilentz [Employment Law Team](#).

This blog post is for informational purposes only and not intended to provide individual tax advice. Please consult with an accountant before proceeding with any distribution to employees.

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