

Summary of Coronavirus Emergency Paid Sick Leave and Emergency FMLA Regulations

Prepared by Terri Johnson, CPA

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	Emergency Paid Sick Leave	Emergency FMLA (expands FMLA)
Who Must Pay	Employers with 1-499 Employees	Employers with 1-499 Employees
Which Employees Are Eligible	<ul style="list-style-type: none"> Any employee who works for the employer No minimum days/hours of employment 	<ul style="list-style-type: none"> Any employee who worked for employer for 30 days prior to leave and has a qualifying reason
How Much Is Employee Entitled To	<p>If EMPLOYEE is sick</p> <ul style="list-style-type: none"> FT Employees: 80 hours of paid sick leave PT Employees: Paid based on avg hrs worked 6 months prior to taking leave PT worked less than 6 months: avg number of hours employee normally scheduled to work 	<p>Provides up to 12 weeks of job-protected leave (paid after first 10 days)</p> <ul style="list-style-type: none"> FT Employees: Based on regular working hour PT Employees: Paid based on avg hrs worked 6 months prior to taking leave PT worked less than 6 months: avg number of hours employee normally scheduled to work
Qualifying Reasons	<ol style="list-style-type: none"> Employee subject to quarantine related to COVID-19 Employee advised by health care provider to self-quarantine due to COVID-19 Employee experiencing symptoms of COVID-19 and seeking medical diagnosis Employee caring for individual subject to a self-quarantine Employee caring for son/daughter if school or child care is unavailable Employee experiencing “any other substantially similar condition” specified by HHS 	<ul style="list-style-type: none"> Employee is unable to work (or telework) due to the need for leave to care for son or daughter under 18 years of age if school or place of care has been closed, due to a public health emergency
Rate of Pay	<ul style="list-style-type: none"> If reasons 1, 2, or 3 above: HIGHER of regular rate, federal minimum wage, or local minimum wage (employee receives 100% of pay) If reasons 4, 5, or 6 above: Employee receives 2/3 of regular rate of pay 	<ul style="list-style-type: none"> First 10 days of EFMLA are unpaid Employee can elect to use accrued sick, PTO or vacation pay to cover first 10 days, but cannot be required to do so by employer Employees are compensated at 2/3 of regular rate of pay

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Capped Pay	<ul style="list-style-type: none"> • If reasons 1, 2, or 3 above: \$511 per day and \$5,110 in aggregate per person • If reasons 4, 5, 6 above: \$200 per day and \$2,000 in the aggregate per person • In essence, this credit is limited to 10 days of paid leave for employees 	<ul style="list-style-type: none"> • \$200 per day and \$10,000 in aggregate per employee • In essence, this credit pays for 10 weeks of paid leave at a max of \$200 per day, as the first 2 weeks are unpaid (or paid via the Emergency Sick Leave Pay)
Exemptions	<ul style="list-style-type: none"> • An employer of an employee who is a health care provider or emergency responder may elect to exclude employees • Small businesses (less than 50 employees) can request exemption from Secretary of Labor if would cause financial jeopardy to employer 	<ul style="list-style-type: none"> • An employer of an employee who is a health care provider or emergency responder may elect to exclude employees • Small businesses (less than 50 employees) can request exemption from Secretary of Labor if would cause financial jeopardy to employer
Additional Rules	<ul style="list-style-type: none"> • Sick leave does not carry over • Employer cannot require employee to find replacement person to cover their hours • Employee may choose to use other available sick time before using emergency paid time • Employer cannot require employee to use other paid time off first • Health insurance costs also included in the credit • Self-employed individuals receive an equivalent credit 	<ul style="list-style-type: none"> • Employees may take Emergency Paid Sick Leave for first 80 hours of FMLA leave so that they are paid • Employee may choose to use other available sick time during the first 10 days
Employer Reimbursement	<ul style="list-style-type: none"> • Employers reimbursed via Tax Credits • Tax credits applied against employer SS taxes • Employers reimbursed if total costs of leave are greater than their share of SS taxes • Employers use money they would normally pay in to cover payroll taxes to pay sick leave • Taxes are reconciled via payroll tax forms at end of quarter • If amounts from payroll taxes are not sufficient to cover payments to employees, a claim form will be forthcoming from the IRS to request expedited cash advances 	<ul style="list-style-type: none"> • Employers reimbursed via Tax Credits • Tax credits applied against employer SS taxes • Employers reimbursed if total costs of leave are greater than their share of SS taxes • Employers use money they would normally pay in to cover payroll taxes to pay sick leave • Taxes are reconciled via payroll tax forms at end of quarter • If amounts from payroll taxes are not sufficient to cover payments to employees, a claim form will be forthcoming from the IRS to request expedited cash advances

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