

The Bankler Report

March 20, 2020

INTRODUCTION

On March 18, 2020, President Trump signed the Families First Coronavirus Response Act, H.R. 6201 (Act). These provisions are retroactive to January 19, 2020, and expire December 31, 2020.

General Overview: The Act provides paid sick leave and free COVID-19 testing, as well as expanded food assistance and unemployment benefits. It requires employers (including government entities) with fewer than 500 workers to provide 80 hours of paid sick leave to all covered employees and up to 10 weeks of paid family leave for certain employees affected by COVID-19 who have worked at the company for at least a month. The Act also provides a series of tax credits to employers and self-employed individuals to help cover lost income due to the COVID-19 outbreak.

Emergency Paid Sick Leave:

- (a) Employers are required to provide 80 hours of paid sick leave to full-time employees.
- (b) Part-time employees' paid sick leave is based upon the average hours worked over a 2-week period.
- (c) Paid sick leave covers days when any of the following occur:
 - An employee's child's school or daycare is closed
 - An employee or a family member whom the employee cares for is quarantined due to COVID-19
 - The employee is experiencing symptoms related to COVID-19 and is seeking a medical diagnosis
- (d) Employees working under a multi-employer collective bargaining agreement will receive sick pay based on hours worked
- (e) These **wages are exempt from the employer's portion of Social Security tax** and an additional payroll tax credit is allowed for the amount of Medicare tax paid on those wages

Emergency Family & Medical Leave Expansion:

Under this portion of the Act, employees caring for a minor child are entitled to two-thirds of their average earnings for up to 10 weeks. This benefit is capped at \$10,000 per individual. Eligibility for this expanded benefit is limited to employees who are unable to work—on site or remotely—because their child's school or daycare was closed due to COVID-19. Unlike the emergency paid sick leave program, working under quarantine or caring for a family member affected by COVID-19 isn't considered "qualifying needs" for the expanded family and medical leave benefit.

The U.S. Department of Labor has the authority to issue regulations which exempt small employers with fewer than 50 employees. Employers in the healthcare and emergency response fields may elect to exclude certain employees from these expanded family and medical leave provisions. These wages are also exempt from the employer's portion of Social Security tax, and an additional payroll tax credit is allowed for the amount of Medicare tax paid on those wages.

Tax Credits for Paid Sick & Paid Family & Medical Leave:

Payroll Credits for Required Paid Sick & Family Leave

The paid sick time payroll tax credit is claimed on a quarterly basis, **equal to 100 percent of the amount of sick leave wages paid**. The credit is limited to \$511 per day (\$5,110 total) if an employee is taking time off to care for themselves or \$200 per day (\$2,000 total) if the sick leave is to care for an individual who's quarantined or showing symptoms of COVID-19 or a minor child whose school is closed. The credit is refundable if it exceeds the amount the employer owes in payroll tax.

For employers who pay family leave wages, **a separate payroll tax provision allows a 100 percent credit against the employer's share of the payroll tax for each employee**, limited to \$200 per day, or a total of \$10,000 per employee. The credit is refundable if it exceeds the amount the employer owes in payroll tax.

Employers must increase their gross income for the taxable year by the amount of payroll credit received.

Self-employed workers (independent contractors, gig economy workers, etc.) also can claim a credit against their regular income taxes related to sick or family leave. **The credit covers 100 percent of self-employed individuals' daily self-employment income or 67 percent if an individual is taking care of a child whose school is closed**. The per-day amount is limited to the lesser of an individual's average daily self-employment income, or \$511 per day if caring for themselves or \$200 if caring for a minor child. The number of eligible days is limited to 10 if related to sick leave and 50 if related to family leave. Treasury is to provide guidance on what documentation self-employed individuals must submit to claim the credit.

Other Benefits Provided Under the Act

In addition, this Act provides for free COVID-19 testing, access to meals for school-aged children forced to stay home, extended unemployment insurance and other measures.

This report is only a brief summary of this ACT and is not a complete discussion of all of its provisions. Please feel free to contact us with your specific questions.