

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

On Wednesday, March 18th President Trump signed the Families First Coronavirus Response Act. The bill goes into effect April 1st.

The nutshell version of the bill is small business owners/employers (anyone with less than 500 employees) are going to be responsible for paying out additional paid time off for qualifying employees who request time off related to the Coronavirus efforts. Each employer who is required to do so will be eligible to be repaid 100% of these required additional wages. The latest information provided was that these additional costs could be recouped three ways:

1. Keep federal withholding, Social Security, and Medicare tax withheld from employee wages and employer matching Social Security & Medicare tax up to the amount of credit available under this legislation, and/or
2. File for expedited refunds through a process that has not been made public yet. We are told these will take about two weeks to process, and/or
3. File for refunds at the end of the quarter when filing Form 941.

As usual, the devil will be in the details. As our federal government rushes to address the medical needs and economic needs created by this issue the details are coming periodically, but more are expected in the coming days/weeks.

The law establishes two types of additional paid time off that, when combined, could generate limited pay for up to 12 weeks for eligible employees. Tracking the time off you pay under this new law will be important so we can recoup these expenses. Please familiarize yourself with the items below and review additional information available through your professional associations and on website at <https://www.oneilsteiner.com/coronavirus-business.html>. Please be aware that while the information is coming fast there is plenty of good information available, but also plenty of incorrect/inaccurate information floating around. This is to be expected when the details are still coming and new.

The first type is **Emergency Paid Sick Leave**. This must be granted to any employee who is unable to work or telework due to one of the following reasons:

Category A:

1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, or
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis.

Category B:

4. The employee is caring for an individual subject to a quarantine order from the Federal, State, or local authorities, or from a health care provider
5. The employee is caring for a child whose school or place of care has been closed, or whose childcare provider is unavailable due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition, as defined by the Secretary of Health and Human Services.

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Number of Hours to be granted:

Full-time employees must be granted 10 days of Emergency Paid Sick Leave. Part-time employees must be granted hours equal to their average hours worked in a two-week period as calculated based on their previous six months of employment.

Pay Rate:

Employees granted Emergency Paid Sick Leave for Category A reasons (#1-#3 above) must be paid the lesser of:

- a) Their normal rate of pay (total pay including overtime, bonuses, and commissions divided by total hours worked over the last six months), or
- b) \$511 per day (aggregate total not to exceed \$5,110/employee)

Employees granted Emergency Paid Sick Leave for Category B reasons (#4-#6 above) must be paid the lesser of:

- a) Two-thirds (2/3) of their normal rate of pay (calculated same as mentioned above for Emergency Paid Sick Leave), or
- b) \$200 per day (aggregate total not to exceed \$2,000/employee)

The second type of paid leave is the **Emergency Family and Medical Leave Expansion**. This states that an employee must be granted additional leave under FMLA if they qualify.

Who qualifies:

- Employees must have been employed at least 30 calendar days (number of hours, part-time vs. full-time doesn't matter)
- Employees must have a child whose school or place of care has been closed, or their childcare provider is unavailable, due to a public health emergency related to COVID-19. Reasons #1,2,3,4, and 6 under Emergency Paid Sick Leave do **NOT** qualify for Emergency Family and Medical Leave Expansion.

Amount of Leave:

Total of 12 weeks. The first 10 days (two weeks) of this type of leave is unpaid. However, the Act states employees must be able to use any other paid time off available to them. We believe this includes using the 10 days available under Emergency Paid Sick Leave above, as well as using any other accrued vacation, personal, or sick time previously granted.

Pay Rate: Employees must be paid the lesser of:

- a) Two-thirds (2/3) of their normal rate of pay (calculated same as mentioned above for Emergency Paid Sick Leave), or
- b) \$200 per day (aggregate total not to exceed \$10,000/employee)