

BREWER • EYEINGTON • PATOUT

CERTIFIED PUBLIC ACCOUNTANTS

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Brewer, Eyeington, Patout & Co. Overview
March 31, 2020

General Overview

- Signed on March 18th, 2020
- Begins April 2nd and expires December 31st
- Includes:
 - The Emergency Paid Sick Leave Act (EPSLA)
 - The Emergency Family and Medical Leave Expansion Act (EFMLEA)
- Applies to employers with fewer than 500 employees
- Requires employers to provide up to two (2) weeks of emergency paid sick leave to eligible employees
- Requires employers to provide as many as ten (10) weeks of emergency paid family and medical leave to eligible employees

Emergency Paid Sick Leave Act

Part 1A

- Employer must pay any employee, unable to work or telework, **due to a quarantine status and/or experiencing symptoms and seeking a medical diagnosis**
- For full-time employees, employer must pay up to two (2) weeks (up to 80 hours) for emergency sick leave
- For part-time employees, employer must pay the number of hours equal to the number of hours a part-time employee works on average, over a two-week period
- Employer must pay 100% of the employee's pay, limited to \$511/day or \$5,110 in total (\$511 * 10 days)
- There is no minimum time an employee must have been employed to be eligible for this emergency sick leave
- Employee may take this leave before other leave provided by employer

Emergency Paid Sick Leave Act

Part 1B

- Employer must pay any employee, unable to work or telework, **due to caring for a quarantined individual or for a child whose school or daycare is closed**
- For full-time employees, employer must pay up to two (2) weeks (up to 80 hours) for emergency sick leave
- For part-time employees, employer must pay the number of hours equal to the number of hours a part-time employee works on average, over a two-week period
- Employer must pay 2/3 of the employee's pay, limited to \$200/day or \$2,000 in total (\$200 * 10 days)
- There is no minimum time an employee must have been employed to be eligible for this emergency sick leave
- Employee may take this leave before other leave provided by employer

Emergency Paid Sick Leave Act

Employer Credits

- Employers are allowed to take a refundable tax credit, in an amount equal to 100% of the qualified sick leave that employer paid for each calendar quarter, PLUS a pro rata share of the employer's qualified health plan expenses
- Employer credits are refundable to the extent the payments made exceed the amount the employers pay in payroll tax
- This credit is taken against the employer's portion of Social Security taxes
- There is no application process. As an employer, you will be able to retain an amount of your payroll taxes equal to the amount of sick and family leave that you paid, instead of depositing them with the IRS.

Emergency Family and Medical Leave Expansion Act

Overview

- Employer must pay any employee, unable to work or telework, **due to caring for a quarantined individual or for a child whose school or daycare is closed**
- Employer must pay up to twelve (12) weeks for emergency leave, where the first ten (10) days may consist of unpaid leave
 - If an employee qualifies for leave under both Acts, the employee may use the Emergency Paid Sick Leave at the same time as the first 10 days of the Emergency Family and Medical Leave that would normally be unpaid
 - Following that 10-day period, an employer must provide paid leave to the employee
 - The employee may also elect to use leave provided by the employer for a portion of unpaid leave
- Employer must pay 2/3 of the employee's pay, limited to \$200/day or \$10,000 in total (\$511 * 50 days)
- Employee must have been employed for at least thirty (30) days

Emergency Family and Medical Leave Expansion Act

Employer Credits

- Employers are allowed to take a refundable tax credit, in an amount equal to 100% or the qualified sick leave that employer paid for each calendar quarter, PLUS a pro rata share of the employer's qualified health plan expenses
- Employer credits are refundable to the extent the payments made exceed the amount the employers pay in payroll tax
- This credit is taken against the employer's portion of Social Security taxes
- There is no application process. As an employer, you will be able to retain an amount of your payroll taxes equal to the amount of sick and family leave that you paid, instead of depositing them with the IRS.

Self-Employed Eligibility

- Self-employed individuals are eligible for BOTH credits:
 - if they would be entitled to receive paid sick leave themselves, under the **Emergency Paid Sick Leave Act**, if they were an employee of an employer
 - if they would be entitled to receive paid family leave themselves, under the **Family and Medical Leave Expansion Act**, if they were an employee of an employer
- This credit is allowed to offset self-employment tax and is refundable

Self-Employed

How to Claim the Credit

- To claim the credit, the self-employed individual will need to substantiate the credit with documentation when filing their income tax return; there is currently no guidance on the documentation required
- The credits would be taken when their individual income tax return (Form 1040) is filed for 2020 in 2021
- The tax credit can be applied against the individual's income tax and is refundable
- The credit will be adjusted downward if the individual has sick leave or family leave coverage through an employer; they are both an employee and are self-employed

Frequently Asked Questions

(slide 1 of 2)

- Are any employers exempt from the requirement to provide leave under the Emergency Family and Medical Leave Expansion Act?
 - Yes, if the employer has fewer than 50 employees, an exemption can be filed through the Department of Labor. The employer will need to show that by providing the leave, it puts the employer's business in jeopardy and creates a going concern issue
- How do I apply for the credits as an employer?
 - There is no application process. As an employer, you will be able to retain an amount of your payroll taxes equal to the amount of sick and family leave that you paid, instead of depositing them with the IRS.

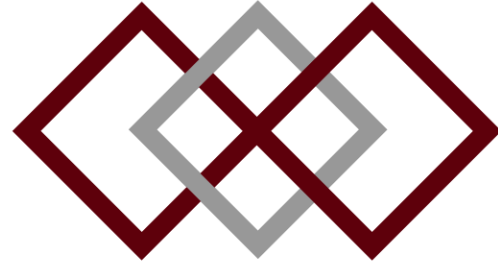
Frequently Asked Questions

(slide 2 of 2)

- What portions of the payroll tax am I able to retain?
 - Withheld federal income taxes
 - EMPLOYEE portion of Social Security and Medicare taxes
 - EMPLOYER portion of Social Security and Medicare taxes
- What if I have paid out more in leave than what I am able to retain in payroll taxes?
 - You will be able to file a request for an accelerated payment FROM the IRS. More details on this process will be released soon.

Key Takeaways

- Effective date is April 2nd
- Employers should work to implement systems before April 2nd for employees to provide justification for leave
- Employers should make every effort to make teleworking possible for every employee
- Employer must update employment right notices. Templates should be available March 25th
- Employer should keep a record of the exact reason why each employee is taking leave



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www.bepcocpa.com

111 E. 27th St.
Bryan, TX 77803
(979)268-1350

217 E. Washington Ave.
Navasota, TX 77868
(936)825-6507

info@bepcocpa.com

