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When Can Employers Claim Payroll Tax Credits for Coronavirus-Related Leave? April 1, 2020

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On March 18, 2020, President Trump signed into law the [Families First Coronavirus Response Act](#) (“FFCRA”). The Act provides that employees at companies with fewer than 500 employees may take paid sick and family leave for reasons related to the COVID-19 pandemic. To compensate employers for providing this newly-mandated paid leave, the Act grants employers a 100 percent payroll tax credit, permitting employers to retain amounts otherwise payable in federal payroll taxes. This 100 percent payroll tax credit is augmented by an accelerated tax credit payment, which employers may claim by filing with the IRS. The U.S. Department of the Treasury is expected to issue formal guidance regarding implementation of the Act [in the coming days](#).

For a detailed discussion of the paid leave and payroll tax credit provisions of the Act, see [PH When Can Employers Claim Payroll Tax Credits For Coronavirus-Related Leave? April 1, 2020](#)

[COVID-19 Client Alert: Employers May Qualify for Significant Tax Credits and Government Reimbursements to Cover Paid Coronavirus-Related Leave.](#)

The stated effective date of the paid leave provisions of the Act is “not later than 15 days” after enactment—on or before April 2, 2020.

However, in News Release IR-2020-57, which was published on March 20, 2020, the IRS stated:

Today the U.S. Treasury Department, Internal Revenue Service (IRS), and the U.S. Department of Labor (Labor) announced that small and midsize employers can begin taking advantage of two new refundable payroll tax credits, [designed to immediately and fully reimburse them](#), dollar-for-dollar, for the cost of providing Coronavirus-related leave to their employees(emphasis added).

This language would seem to suggest that employers could begin claiming the tax credits for the cost of providing Coronavirus-related leave as of March 20, 2020. However, taxpayers have also been advised that they cannot rely upon IRS Publications, News Releases, or Frequently Asked Questions.

On March 24, 2020, the U.S. Department of Labor published Frequently Asked Questions that provide that the FFCRA’s paid leave provisions are effective on April 1, 2020, and apply to leave taken between April 1, 2020, and December 31, 2020.



The U.S. Department of the Treasury has indicated that the credit will only be available to compensate leave paid after the effective date that it will set in forthcoming guidance.

[Click here](#) to read more from our Coronavirus series.



If you have any questions concerning these developing issues, please do not hesitate to contact the following Paul Hastings New York lawyer:

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