

## **FAMILIES FIRST CORONAVIRUS RESPONSE ACT**

The federal government passed the **Families First Coronavirus Response Act** on March 18, 2020. This Act is effective April 1<sup>st</sup> to expand Sick Leave and Family Medical Leave. The Act is meant to help employees that are unable to perform their normal duties due to COVID 19 while the business stays in operation. The Act applies to employers with less than 500 employees. An employer with less than 50 employees may apply for an exception with the Department of Labor. In particular, the Act is broken into 2 separate payments for Leave.

### **Sick Leave:**

Employers must allow employees that are employed on April 1<sup>st</sup> 80 hours of paid Sick Leave if the employee is not able to perform their normal duties either at work or through teleworking (if the employer permits them to telework). The amount paid to the employee depends upon the reason for the Sick Leave as follows:

- If Leave is for the following, a full time employee is entitled to receive payment at their regular pay rate up to \$511 per day and \$5,110 in total of Sick Leave pay (up to 80 hours). If the employee was a part time employee then the employee is allowed the prorated amount that the employee normally works during a 40 hour work week.
  - Employee is Quarantined due to a government order or by advice of a health care provider; OR
  - Employee is experiencing COVID 19 symptoms and seeking a medical diagnosis
  
- If Leave is for the following, the full time employee is entitled to receive payment at 2/3 of their regular pay rate up to \$200 per day and \$2,000 in total of Sick Leave pay (up to 80 hours). If the employee was a part time employee then the employee is allowed the prorated amount that the employee normally works during a 40 hour work week.
  - Employee is unable to work because of a bona fide need to care for an individual that is under quarantine by the government or advice of a health professional; OR
  - Employee must care for a child under the age of 18 whose school or care provider is closed due to COVID 19; OR
  - Employee is experiencing substantially similar conditions that are related to COVID 19.

### **Family & Medical Leave:**

After the Sick Leave of 80 hours is used by the employee, employers must allow employees that are employed on April 1<sup>st</sup> an additional 10 weeks of paid family and medical Leave. The employee must have been employed for 30 days prior to applying for the extended Leave. The employee must not be able to perform their normal duties either at work or through

teleworking (if the employer permits teleworking) because the employee must care for a child under the age of 18 whose school or care provider has closed due to COVID 19. The employee is allowed 2/3 of their normal pay up to \$200 per day and \$10,000 in total over the 10 week period.

### **Additional Rules:**

There are some additional rules that employers and employees must know on who may obtain Leave:

- First, the payments only apply to Leave effective April 1<sup>st</sup>. Any Leave taken before April 1<sup>st</sup> is not applicable under this Act.
- The DOL encourages employers and employees to collaborate to achieve flexibility to meet mutual needs. For instance, if an employee must care for their child on Monday, Wednesday and Friday, then they can be paid for the days they don't work on Tuesday and Thursday. The DOL allows intermittent pay under the Act.
- If an employer permits an employee to telework, then the employee can only obtain Leave if the reason for the Leave falls under one of the requirements above. The employee's inability to telework because the employee lacks the resources to telework is not a valid reason.

Under the following situations, an employee cannot be paid under this Act and must look to Unemployment:

- The employer closes the worksite at any time due to government directive or own accord and does not have teleworking available.
- Employer worksite is open but employee is furloughed.
- Employer cuts employees hours due to lack of work available to be done.
- If the employee starts Leave but then the employer closes work then the employee can no longer be paid for Leave.

### **Employer Credits:**

The Act also supports the employer that pays for the employee's Leave through the use of payroll tax credits. An employer is allowed a credit for the following items paid while the employee is on Sick or Family Leave under this Act:

- Maximum amount of Leave paid that is allowed under the Act that the Employer pays
- Amount of Group Health Insurance that the employer pays on the behalf of the employee.
- Amount of Medicare Tax that the employer must pay for its share of employment taxes on the Leave payment.
- Also, the Leave payments are NOT subject to Social Security tax withholding and not subject to employer's share.

An Employer may apply for a credit in one of 3 ways:

- The employer may take a refundable credit for these amounts on the quarterly payroll reports that it files.
- The employer may net the required payroll withholdings with any credit allowed during each pay period.
- The employer may apply for an immediate refund through the IRS on a form that will be created by the IRS at a future date.

A Self Employed individual may apply for a credit as well if the self-employed person would have been entitled to either Leave pay if they would have been an actual employee. The Self Employed person will apply for the credit on their personal return.

Here at Stancil, we know that these rules are voluminous and that you may have questions. We are here to help so please feel free to reach out to us to go over your individual situation. As always, remember to Stay Safe and Stay Well!

For more information contact:

Scott Hensley; 919 670 5061; [SHensley@StancilCPA.com](mailto:SHensley@StancilCPA.com)

April 1, 2020