



Good afternoon,

As mentioned in our previous e-mail communication, we are working diligently to gain insight and understanding of the new regulations being passed on federal and state levels regarding the COVID-19 pandemic. We have been gathering the questions being asked of our individual HR Managers and Payroll Specialists regarding the legislation, as well as general personnel actions that can be taken during these unprecedented times. Beginning today, we will be sharing the answers to those questions with you in the format of series of FAQs. These FAQs will be shared as answers become available. As I am sure you are aware, the information we are learning is fluid. We are sharing the information as we know it today, understanding that it can be subject to change as we learn more.

We will begin with some basic details on the Emergency Paid Leave Act:

Q: When is the Act effective?

A: The Act is effective April 2, 2020. Our understanding is that any COVID-19-related absences taken by an employee prior to this date will not be covered under the Act.

Q: What pay are employees eligible for?

A: There are two types of leave:

1. Paid Sick Leave

- Eligible full-time employees are entitled to two weeks (80 hours) of fully paid time off (up to \$511 per day) to self-quarantine, seek a diagnosis or preventive care, or receive treatment for COVID-19.
 - Eligible part-time employees are entitled to fully paid time off (up to \$511 per day) for the typical number of hours that they work in a typical two-week period to self-quarantine, to seek a diagnosis or preventive care, or receive treatment for COVID-19.
- Eligible full-time employees are entitled to two weeks (80 hours) paid time off at two-thirds of their regular pay (up to \$200 per day) to care for a family member or to care for a child whose school has closed, or if their childcare provider is unavailable due to COVID-19.
 - Eligible part-time employees are also entitled to the typical number of hours that they work in a typical two-week period at two-thirds of their typical pay (up to \$200 per day) to care for a child whose school has closed, or if their childcare provider is unavailable, due to COVID-19.

2. Emergency Family Medical Leave

- Eligible full- and part-time employees are entitled to 12 weeks of job-protected leave to take care for their children in the event of a school closure or their childcare provider is unavailable due to COVID-19.
- The 12 weeks of job-protected leave include two weeks of unpaid leave, followed by 10 weeks of paid leave. Eligible employees may elect or be required to overlap the initial two weeks of unpaid leave with two weeks of other paid leave they have available. Eligible employees will receive a benefit from their employers that will be no less than two-thirds of the employee's usual pay.

Q: Where can the details for administering the components of the Act be found?

A: The Federal Government is currently working on a document that outlines the administration of the Act. We anticipate that being provided for employers later this week (current communications state we will have the information on Wednesday, March 25). The administrative details should outline recordkeeping requirements, any documentation the employee will be required to provide in order to take the leave, what provisions are available to employers to be exempt from providing the leave and how employers file for exemptions, and the finer points of how the tax credit will be administered (what actions does the employer need to take to receive the credit, how will the credit be reflected in the employer's tax records, etc.).

Q: How will employers be reimbursed for the payroll expense of the paid sick leave and emergency family medical leave?

A: Employers will be reimbursed through a refundable tax credit that counts against the employer's payroll tax, which all employers pay regardless of non-profit/for-profit status. Employers will be fully reimbursed by the federal government within three months. Again, more details of the administration of the tax credit will be provided by the Federal Government, but the slide below provided by NAPEO provides an overview as it is currently understood:

Basic Employer Tax Credits for Paid Sick/Family Leave

Credit Amount = 100% of Wages Paid that are *Required to be Paid Under the Emergency Paid Sick Leave Act or Emergency Family and Medical Leave Expansion Act*

- Credit is applied quarterly against the employer's share of Social Security taxes (section 3111(a))
 - Any excess credit amount is treated as overpayment and is refundable
- Credits are limited in same manner (daily and aggregate limits) as the requirements for paid sick/family leave

Example:

- Kelsey is paid \$400/day. She takes two weeks off because she is under quarantine for COVID-19. Employer A pays wages of \$4,000 to Kelsey (\$400/day for 10 days) in accordance with the **Emergency Paid Sick Leave Act**. Employer A's total payroll tax liability for Social Security taxes is \$50,000. Employer A may claim a payroll tax credit of \$4,000 against that \$50,000 liability (i.e., instead of paying \$50,000, the employer would pay \$46,000).

Q: Are only the payroll wages reimbursed to the employer?

A: No, there are additional credits for the Medicare hospital insurance tax and health plan expense during the leave. More details on this credit will also be outlined in a document currently being prepared by the government, but the slide below, also provided by NAPEO provides an overview as it is currently understood:

Employer Tax Credits for Paid Sick/Family Leave: Other Features

- **Increases in basic credit amount**
 - **Medicare hospital insurance tax** → credit is increased by the amount of the employer portion of the Medicare hospital insurance tax imposed on the paid sick/family leave wages that are required to be paid
 - **Health plan expenses** → credit is increased by the amount of the employer's qualified health plan expenses that are "properly allocable to the qualified sick leave wages for which such credit is so allowed"
 - **Goal:** reimburse employers for cost of continuing to provide health care coverage while employees are receiving wages required under new paid sick/family leave provisions
- **No double benefits** (e.g., Code section 45S employer credit for paid family and medical leave)
- Regulatory authority provided for certain issues, including:
 - minimizing compliance burdens
 - waiver of penalties for failure to deposit amounts "in anticipation of the allowance of the credit"

