

H.R. – 6201, Families First Coronavirus Response Act – A Practical Summary for Businesses

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As someone that works with government on a regular basis and reads political Facebook posts, I have little faith that any legislation passed will do what it claims to do. But this bi-partisan legislation is a good piece of legislation that will help employers with fewer than 500 employees AND their employees as well for those employees and their families who have come into contact with coronavirus.

This legislation is wide-reaching covering many topics including expanded funding for many programs that I had never heard of. We have selected a few sections that could apply to many of our friends and clients to discuss below. These sections apply to employers with fewer than 500 employees.

1. **Emergency Family and Medical Leave**

- a. **Employer Rules/Employee Benefits**: This section provides employees of employers with fewer than 500 employees who have been on the job for at least 30 days with the right to take up to 12 weeks of job-protected leave under the Family and Medical Leave Act, to be used for any of the following reasons:
 - i. To adhere to a requirement or recommendation to quarantine due to an exposure to or symptoms of coronavirus;
 - ii. To care for an at-risk family member who is adhering to a requirement or recommendation to quarantine due to an exposure to or symptoms of coronavirus;
 - iii. To care for a child of an employee if the child's school or place of care has been closed, or the child-care provider is unavailable, due to a coronavirus.

After two weeks of paid leave, employees will receive a benefit from their employers that will be no less than two-thirds of the employee's usual pay.

- b. **Employer Benefit – Payroll Credit for Required Paid Family Leave**: This section provides a refundable tax credit equal to 100% of qualified family leave wages paid by an employer for each calendar quarter. The amount of qualified family leave wages taken into account for each employee is capped at \$200 per day and \$10,000 for all calendar quarters.

2. **Emergency Paid Sick Leave Act**

- a. **Employer Rules/Employee Benefits**: Under this provision, employers with fewer than 500 employees are required to provide employees two weeks of paid sick leave, paid at the employee's regular rate to ("Situation A") quarantine or seek a diagnosis or preventive care for coronavirus; or paid at two-thirds the employee's regular rate to care for ("Situation B") a family member for such purpose or to care for a child whose school has closed, or child care provider is unavailable due to coronavirus.

Full time employees are entitled to two weeks (80 hours) and part-time employees are entitled to the typical number of hours that they work in a typical two-week period.

- b. **Employer Benefit – Payroll Credit for Required Paid Sick Leave:** The section provides a refundable tax credit to the employer equal to 100 percent of the qualified paid sick leave wages paid by an employer for each calendar quarter. The tax credit is permitted against the employer portion of Social Security taxes. Any excess is refundable and applied on a quarterly basis.

This section makes a distinction between qualified sick leave wages paid for employees in Situation A above (the employee, him- or herself is affected by the coronavirus directly) and those in Situation B (the employee is caring for a family member with coronavirus). Under Situation A, the amount of qualified sick leave wages taken into account for each employee is capped at \$511 per day. Under Situation B, the amount of qualified sick leave wages is capped at \$200 per day. In either case the aggregate number of days may not exceed the excess of 10 over the aggregate number of days taken into account from all preceding calendar quarters.

3. **Self-Employed Individuals:** There are a similar required paid family leave and sick leave tax credits available to self-employed individuals who are either afflicted directly, like Situation A or caring for a family member, like Situation B. The credit is allowed against income taxes and, again, is refundable.

A few important items to note:

1. While the House of Representatives has passed this legislation and the President has stated that he will sign it, as of this writing it has not passed the Senate yet. Senate Majority Leader Mitch McConnell issued the following statement after the bill passed the House: “Of course, Senators will need to carefully review the version just passed by the House. But I believe the vast majority of Senators in both parties will agree we should act swiftly to secure relief for American workers, families, and small businesses.”
2. This is a high-level overview of a handful of the topics covered by this legislation. The devil is in the details. The Secretary of the Treasury has been given broad authority to issue regulations and guidance necessary to carry out the purposes of the tax credit sections referred to above, including regulations and guidance related to avoidance, penalty waivers with respect to deposit amounts, compliance, record-keeping requirements, relief and benefit recapture.
3. Many of these changes would take effect 15 days after the bill is enacted, would not be retroactive and would terminate December 31, 2020.
4. There are other ways that small business may qualify for relief such as:
 - a. The Small Business Administration is providing up to \$2 million in low-interest disaster recovery loans to businesses
 - b. According to a Wall Street Journal Article, New York City is offering interest-free loans of up to \$75,000 to firms with fewer than 100 employees that see a 25% decline in sales.

Once we have final legislation, we will update the information above in more detail. Please contact us to discuss your particular challenges and together we can plan the path forward.