

EMPLOYER GUIDE TO PAID LEAVE

UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT



The Families First Coronavirus Response Act (FFCRA) requires certain employers to provide their employees with up to a total of 12 weeks of temporary emergency paid sick leave and emergency family and medical leave benefits for specified reasons related to COVID-19. These employer paid benefits are 100% reimbursable by the federal government and are in effect from April 1, 2020 through December 31, 2020.

Covered Employees

- Private sector employers with fewer than 500 employees (includes both F/T and P/T) and certain public sector employers
- Small businesses with fewer than 50 employees may qualify for exemption from specific requirements under certain conditions (see section “Exemption” below)



EMERGENCY PAID SICK LEAVE (EPSLA)

Which employees are eligible?

- All employees (F/T and P/T)
- Up to two weeks (80 hours, or a part-time employee’s two-week equivalent) of emergency paid sick leave is available to any employee (no minimum service requirement) if the employee is unable to work, or unable to telework, because the employee:
 1. Is subject to Federal, State, or local quarantine or isolation order related to COVID-19
 2. Has been advised by a health care provider to self-quarantine related to COVID-19
 3. Is experiencing COVID-19 symptoms and is seeking medical diagnosis
 4. Is caring for an individual subject to #1 or #2
 5. Is caring for his/her child (under age 18) whose school or place of care is closed, or child-care provider is unavailable due to COVID-19 related reasons
 6. Is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury

How much can employees receive?

Reason for emergency paid sick leave	Wage employer pays employee	Maximum per day	Total two week maximum
Reasons 1, 2, or 3	Higher of regular rate or minimum wage	\$511	\$5,110
Reasons 4, 5, or 6	Higher of 2/3 regular rate or 2/3 minimum wage	\$200	\$2,000

EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION (EFMLEA)

Which employees are eligible?

Any employee who has been on payroll for at least 30 days prior to requesting leave is eligible for up to a total of 12 weeks, 2 weeks unpaid and 10 weeks paid, (480 hours, or a part-time employee’s 12 week equivalent) expanded emergency family and medical leave. Paid emergency family/medical leave is available only if an employee is unable to work, or telework, because employee is caring for his/her child (under age 18) whose school or place of care is closed, or child-care provider is unavailable due to COVID-19 related reasons. The first two weeks may be taken as emergency paid sick leave (reason 5 above), or the employee may substitute any accrued vacation, personal, medical or sick leave under the employer’s leave policy.



How much can employees receive?

	Wage employer pays employee	Maximum per day	Total maximum
First two weeks	Unpaid unless EPSL or accrued leave is applied	Dependent on leave type selected	Dependent on leave type selected
Next 10 weeks	Higher of 2/3 regular rate or 2/3 minimum wage	\$200	\$10,000

EXEMPTIONS

What if I have fewer than 50 employees...Am I exempt?

Per Department of Labor guidelines, a small business may qualify for exemption if leave being requested is due to a school closure or because the child's regular caregiver is unavailable due to Coronavirus and if this leave would jeopardize the viability of the small business as a going concern.

This exemption is available if an authorized officer of the business certifies that at least one of the following is true:

- Providing leave would result in expenses and financial obligations exceeding revenues and cause the business to cease operating
- The absence of the employees would entail a substantial risk to the operation of the business because of their specialized skills, knowledge of the business, or responsibilities.
- You cannot find other workers to perform the work of the employee, and that work is required for the business to operate at a minimal capacity.

What if I am in the health care business..Am I exempt?

Businesses whose employees are healthcare providers or emergency responders may elect to exclude such employees from paid sick leave and paid FMLA leave.

The definition is fairly broad. Visit www.dol.gov/agencies/whd/pandemic/ffcra-questions for specific definitions of those terms.

Do I have to provide paid sick or paid FMLA leave if my business is closed?

No. If you close due to a lack of business or because of a Federal, State, or local directive, you do not have to provide paid leave. In this case your employees would likely be eligible for unemployment compensation. This is the case whether you lay off or furlough.

REIMBURSEMENT

How will my business be reimbursed for this leave?

Eligible employers are entitled to receive a dollar-for-dollar tax credit for reimbursement of all paid emergency sick leave and expanded family and medical leave, plus related health insurance expenses and the employer's share of Medicare tax on the leave, for the period of April 1, 2020, through December 31, 2020. The refundable credit is applied against certain employment taxes on wages paid to all employees. Employers can substantiate eligibility for sick leave or family leave credits by receiving a written request from the employee that includes: employee name; date or dates for which leave is requested; a statement of the COVID-19 related reason for requested leave and written support for such reason; and a statement that they are unable to work, or telework, for such reason. Employers may develop a substantiation form similar to the example [HERE](#). For additional information on this and other available tax credits, please visit: <https://www.irs.gov/coronavirus/new-employer-tax-credits>.



REQUIRED EMPLOYER NOTICE

Each covered employer must post notice of FFCRA requirements and employee entitlements in a conspicuous place on its premises. Click [HERE](#) for more information.

ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Refer to the [DOL's Families First Coronavirus Response Act: Questions and Answers](#), for additional information.

This has been prepared as basic information only and not to be considered as legal or tax advice. Please consult with your legal or tax professional related to your specific business situation.

