

FFCRA

FAMILIES FIRST  
CORONAVIRUS  
RESPONSE ACT



# Disclaimer

Information presented is not intended to be misconstrued as legal or accounting advice. It should not substitute for legal, accounting and other professional advice where required.



# Outline

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- Reason for Leave
- Amount of Paid Leave
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# History

- COVID-19 declared a pandemic on March 11, 2020.
- FFCRA Signed March 18, 2020.
  - Effective April 1, 2020.
  - Sunset December 31, 2020.
- First time the Federal Government has established employer paid leave.



# Overview

- Create a new emergency paid sick leave mandate for COVID-19 related absences.
- Expands the Family and Medical Leave Act to include paid leave to care for son/daughter due to school/daycare closures.
- Provides payroll tax credits for employers to cover the paid leave requirement.



# Overview

- Leave does not roll over to the next year.
- Leave is not payable at employment separation.
- Leave is in addition to any existing leave policies. *(to include company accrued leave and other legally mandated state and local leave).*



# Overview

- Employee may elect to use other paid sick leave but are not required. (*Can't require employee to deplete their paid sick leave or paid vacation balance*).
- A COVID-19 FFCRA required posting. Must be posted in your work area and sent via email/mail to telework employees. (*Suggest having employees sign an affidavit that the poster was received*).



# Who is Covered?

## Employers

Private employers with less than 500 employees

Government employers

## Employees

“Employee” – any person employed with an employer as defined by the FLSA.

Fair Labor Standards Act (FLSA): [LINK](#)

Eligibility:

- Employees must be unable to work, including telework, due to COVID-19 issues.
- Healthcare providers have an exemption (limited).



# Reason for Leave

## Emergency Paid Sick Leave

All employees eligible – no minimum service required

Leave can be taken if the employee is unable to work due to a COVID-19 related issue (including telework)

- Experiencing symptoms of COVID-19 AND seeking medical care.
- Self-quarantined based on provider recommendations.
- Quarantined or isolated by order from federal, state or local authority.
- Caring for a family member or individual who is quarantined due to COVID-19.
- Caring for a child under 18, whose school or care provider is closed due to COVID-19.

## Emergency Paid Family Medical Leave

Employed for at least 30-days (Standard FMLA service requirements do not apply [1 year / 1250 hours] )

Leave can be taken if the employee is required to care for a child under the age of 18 due to a COVID-19 related closure of a school , daycare, or other care solutions



# Amount of Paid Leave

## Emergency Paid Sick Leave

All employees eligible – no minimum service required

**Full-time Employees:** receive 80-hours (up to two weeks)

**Part-time Employees:** receive a prorated amount based on the average hours worked in a two-week period.

## Emergency Paid Family Medical Leave

Employed for at least 30-days (Standard FMLA service requirements do not apply [1 year / 1250 hours] )

**All Employees:** 12-weeks leave

- First 10-days are unpaid
  - **\*\*EMPLOYEES MAY USE ANY ACCURED COMPANY LEAVE OR OTHER LEAVE PROVIDE BY LAW**
- Remaining days, up to 12-weeks are paid leave under the FFCRA
- Hours of pay is equal to what the employee would have normally been scheduled to work



# How Much to Pay

## Emergency Paid Sick Leave

All employees eligible – no minimum service required

Paid sick leave for self-care:

- Regular rate of pay
- Capped at \$511/day - \$5,110 total.

Paid sick leave to care for family member or child due to closure

- 2/3 of regular rate of pay for normally scheduled hours
- Capped at \$200/day or \$2,000 total.

## Emergency Paid Family Medical Leave

Employed for at least 30-days (Standard FMLA service requirements do not apply [1 year / 1250 hours] )

Paid leave to care for a son/daughter under the age of 18 due to COVID-19 related closure of their school, daycare or other care services.

- 2/3 of regular rate of pay for normally scheduled hours
- Capped at \$200/day or \$10,000 total.



# Additional Considerations

- FOR TELEWORK:
  - Leave can be taken intermittingly – at the discretion of the employer. Intermittent leave can be taken in any agreed upon increment.
    - Example: you and your employee may agree on a 90-minute increment, employee teleworks from 1:00 PM to 2:30 PM, takes leave from 2:30 PM to 4:00 PM, and then returns to teleworking.
- NON-TELEWORK (work at usual worksite)
  - Leave **is not** to be taken intermittingly., must be in full-day increments.
  - Meaning, once paid sick leave starts it must continue until (1) the full amount of paid sick leave is used or (2) there is no longer a qualifying reason.
    - Special Consideration - WHEN THE EMPLOYEE IS TAKING LEAVE TO CARE FOR A SON/DAUGHTER UNDER 18 DUE TO A SCHOOL, DAYCARE OR CARE PROVIDER COVID-19 RELATED CLOSURE, can they take leave intermittingly.
    - Example: employee cannot work Monday, Wednesday, Friday due to a childcare issues, but can still work Tuesday and Thursday.



Employees can use any remaining balance through December 31, 2020 if they experience another qualifying reason.

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# Documentation

You must document the following:

- The name of your employee requesting leave;
- The date(s) for which leave is requested;
- The reason for leave; and
- A statement from the employee that he or she is unable to work because of the reason.
  - If your employee requests leave due to a government order, name of the government entity that issued the order.
  - If your employee requests leave to self-quarantine based on the advice of a health care, document the name of the health care provider who gave advice.
- If your employee requests leave to care for his or her child whose school or place of care is closed, or childcare provider is unavailable, you must also document:
  - The name of the child being cared for;
  - The name of the school, place of care, or childcare provider that has closed or become unavailable; and
  - A statement from the employee that no other suitable person is available to care for the child.

**Request for Leave of Absence  
Families First Coronavirus Response Act**

Employee Name:	Phone Number:
Address:	Email Address:
Emergency Contact:	Phone Number:

**TYPE OF LEAVE REQUESTED**

Emergency Paid Sick Leave Act	Emergency FMLA Expansion Act
Time Permitted: Two weeks (10 days) maximum	Time Permitted: Twelve weeks total
Type of Leave: Paid Leave	Type of Leave: Two weeks unpaid, Ten weeks paid.
I am unable to work (or telework) for the following reason:	I am unable to work (or telework):
<input type="checkbox"/> I am subject to a federal, state or local quarantine or isolation order related to COVID-19.	<input type="checkbox"/> I am caring for my son or daughter (under the age of 18) because school or place of care has been closed due to COVID precautions, and
<input type="checkbox"/> I have been advised by a health care provider to self-quarantine due to concerns related to COVID.	<input type="checkbox"/> I have been employed by this employer for at least 30 calendar days.
<input type="checkbox"/> I am experiencing symptoms of COVID and am seeking diagnosis.	
<input type="checkbox"/> I am caring for an individual who is subject to self-quarantine by a federal, state, or local order or was advised by a health care provider to self-quarantine.*	
<input type="checkbox"/> I am caring for my son or daughter (under the age of 18) because school or place of care has been closed due to COVID precautions.	
<input type="checkbox"/> I am experiencing other conditions substantially similar to COVID as specified by the Secretary of HHS.	
Date Leave Will Begin:	Date Leave Will Begin:
Date You Will Return:	Date You Will Return:
<input type="checkbox"/> Continuous <input type="checkbox"/> Intermittent*	<input type="checkbox"/> Continuous <input type="checkbox"/> Intermittent*
Explain proposed schedule for intermittent leave:	Explain proposed schedule for intermittent leave:
<small>*Intermittent leave is only permitted for child care leave. Employer and employee must agree to intermittent leave.</small>	<small>*Employer and employee must agree to intermittent leave.</small>
<b>Please indicate the following:</b>	
<input type="checkbox"/> I wish to continue my health insurance benefits while on leave. I understand that I am responsible for making timely payments for my portion of the premiums.	<input type="checkbox"/> I wish to continue my health insurance benefits while on leave. I understand that I am responsible for making timely payments for my portion of the premiums.
<input type="checkbox"/> I wish to substitute accrued PTO or sick time to supplement my paid time off as follows: ____ PTO Hours ____ Sick Time Hours (Employee may not earn more than 100% of their salary.)	<input type="checkbox"/> I wish to substitute accrued PTO or sick time to supplement my paid time off as follows: ____ PTO Hours ____ Sick Time Hours (Employee may not earn more than 100% of their salary.)

**Job Protected Leave:** Employers with 25 or more employees are required to hold the employee's position while an employee is taking leave under the Emergency Family and Medical Leave Expansion Act. If the position does not exist upon the employee's return due to economic circumstances or operating conditions, the employer is obligated to make a reasonable effort to find an equivalent position.

**Maximum Leave of Absence Rights:** An employee is entitled to a combined maximum of 12 weeks, including any additional federal FMLA the employee may have taken during a 12 month period as defined by the employer.

**Provide Documentation Supporting Eligibility:** Please include documentation supporting eligibility for this leave. The employer reserves the right to tentatively approve your request for leave pending receipt of doctor's confirmation that you qualify. A letter from your doctor, the health care provider's name, or evidence that the daycare is closed will help expedite approval of your request. The employer is responsible for substantiation and tax credit submissions.

I certify that the above information is accurate and complete. I understand if I fail to report to work on or before the scheduled return date or fail to contact Human Resources at # \_\_\_\_\_, my employer may take corrective action.

Employee Signature: _____	Date _____	Employer Signature _____	<input type="checkbox"/> Approved <input type="checkbox"/> Denied	Date _____
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# Additional Considerations

A small business (50 or less employees) is exempt from certain paid sick leave and expanded family and medical leave requirements if providing an employee such leave would **jeopardize the viability of the business** as a going concern.

This means a small business (50 or less employees) is exempt from mandated paid sick leave or expanded family and medical leave requirements only if the:

- leave is requested because the child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons; and
- an authorized officer of the business has determined that at least one of the three conditions are satisfied
  1. The provision of paid sick leave or expanded family and medical leave would result in the small business's expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity;
  2. The absence of the employee or employees requesting paid sick leave or expanded family and medical leave would entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities; or
  3. There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee or employees requesting paid sick leave or expanded family and medical leave, and these labor or services are needed for the small business to operate at a minimal capacity.



# Penalties for non-compliance

- Violations of the paid sick leave provision will be a violation of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206). It will be considered to have failed to pay minimum wages . It will subject to the penalties described in sections 16 and 17 of the FLSA
- Employees may also sue the employer (if state and local law permits)

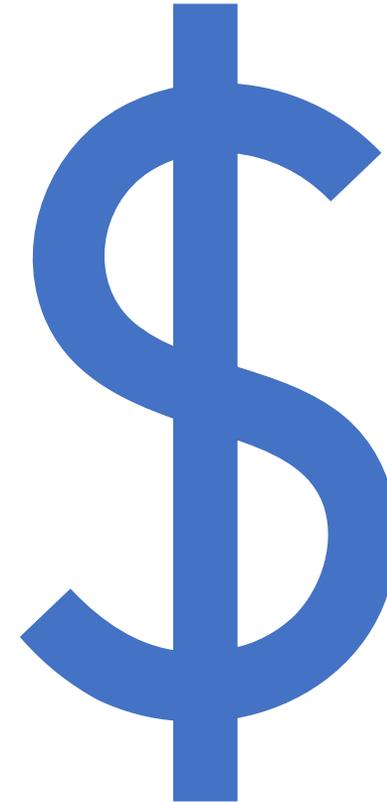


# Employer Tax Credits



## Eligibility

Eligible employers are entitled to receive a credit in the full amount of the required sick leave and family leave, plus related health plan 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.



Coverage & Limits	Documentation
<p>Companies who are required to pay under the FFCRA will be entitle to tax deduction credits.</p>	<p>Documentation Documentation Documentation</p>
<p>The FFCRA has a 3 different pay maximums for the different qualifying reasons for leave and the type of leave taken</p> <p>Tax credits are limited to the amount that is listed under the Act.</p> <p>If a company pays more – they will not be entire to tax credits under this provision.</p>	<p>Did I say DOCUMENTATION?</p> <p>Proper documentation is going to be vital for this tax credit.</p> <p>Provide is a template that can be used if you choose.</p>



# Tax Credits





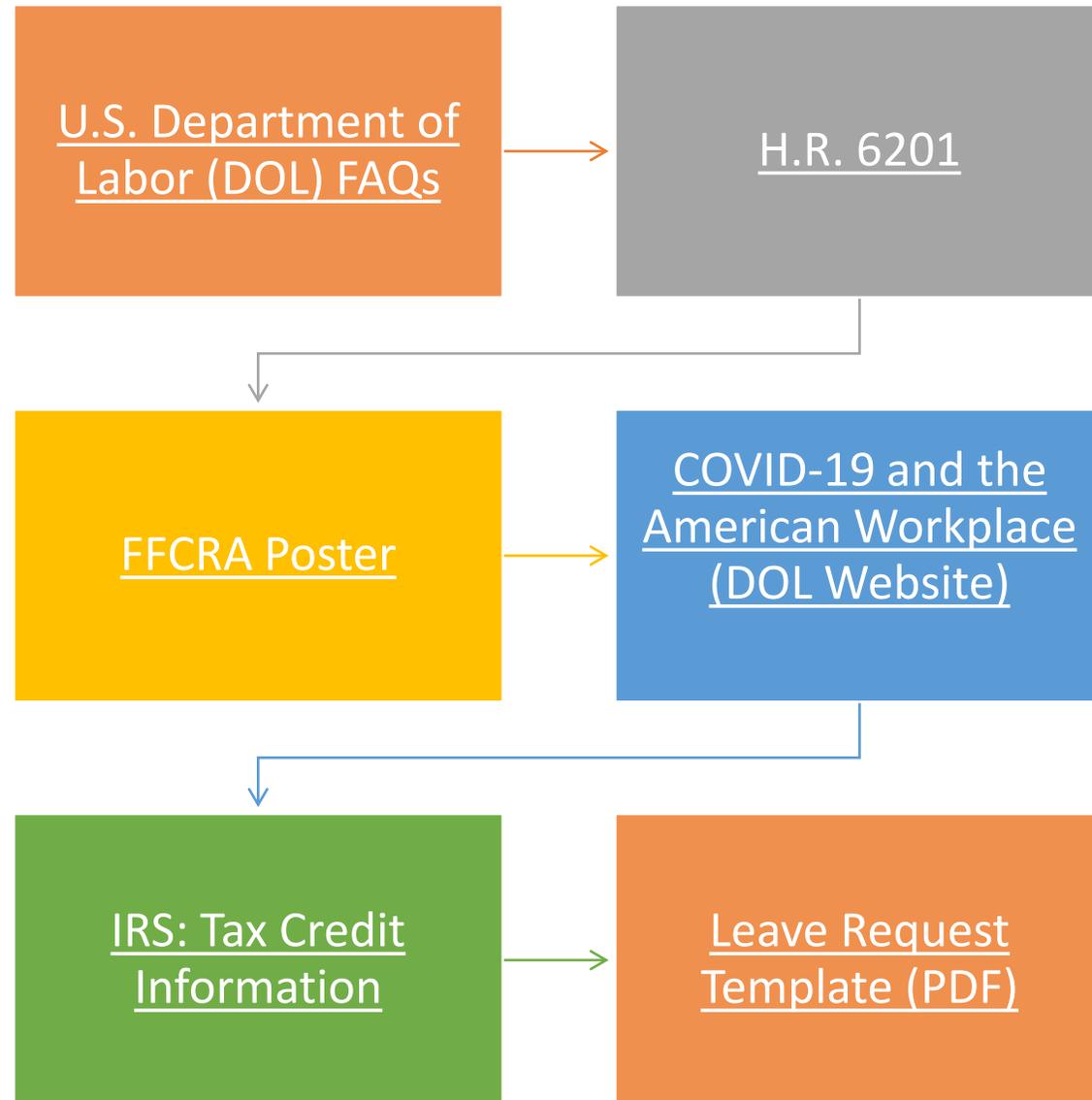
## Documentation

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**You are not required to provide leave if materials sufficient to support the applicable tax credit have not been provided.**



# Resource Links



(Links can be clicked on through the PDF provide copy of the presentation)



# Counting to 500

You have fewer than 500 employees if, at the time your employee's leave is to be taken, you employ fewer than 500 full-time and part-time employees within the United States, which includes any State of the United States, the District of Columbia, or any Territory or possession of the United States. In making this determination, you should include employees on leave; temporary employees who are jointly employed by you and another employer (regardless of whether the [jointly-employed employees](#) are maintained on only your or another employer's payroll); and day laborers supplied by a temporary agency (regardless of whether you are the temporary agency or the client firm if there is a continuing employment relationship). Workers who are independent contractors under the Fair Labor Standards Act (FLSA), rather than [employees](#), are not considered employees for purposes of the 500-employee threshold.

Typically, a corporation (including its separate establishments or divisions) is considered to be a single employer and its employees must each be counted towards the 500-employee threshold. Where a corporation has an ownership interest in another corporation, the two corporations are separate employers unless they are [joint employers under the FLSA](#) with respect to certain employees. If two entities are found to be joint employers, all of their common employees must be counted in determining whether paid sick leave must be provided under the Emergency Paid Sick Leave Act and expanded family and medical leave must be provided under the Emergency Family and Medical Leave Expansion Act.

In general, two or more entities are separate employers unless they meet the [integrated employer test](#) under the Family and Medical Leave Act of 1993 (FMLA). If two entities are an integrated employer under the FMLA, then employees of all entities making up the integrated employer will be counted in determining employer coverage for purposes of paid sick leave under the Emergency Paid Sick Leave Act and expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act.



# Healthcare Exemption

A health care provider is anyone employed at any doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, Employer, or entity. This includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions.

This definition includes any individual employed by an entity that contracts with any of these institutions described above to provide services or to maintain the operation of the facility where that individual's services support the operation of the facility. This also includes anyone employed by any entity that provides medical services, produces medical products, or is otherwise involved in the making of COVID-19 related medical equipment, tests, drugs, vaccines, diagnostic vehicles, or treatments.

This also includes any individual that the highest official of a State or territory, including the District of Columbia, determines is a health care provider necessary for that State's or territory's or the District of Columbia's response to COVID-19.



The End

