



BEATTY CPA LLC remains dedicated to assisting you during these turbulent times with your tax consulting and tax compliance needs. We are writing to advise of a few changes we are implementing in response to the coronavirus (COVID-19) pandemic. In light of the rapidly changing environment caused by the continued spreading of COVID-19, we want to ensure we do our part to protect our people, clients, and communities. In that endeavor, we have decided not to conduct face to face meetings but instead we will be conducting virtual meetings. We will resume face to face meetings once the COVID-19 dangers are behind us. Also, beginning, Monday, March 23, 2020, **BEATTY CPA LLC** will transition to working remotely. You may reach us via the main line (832.321.4444) which will be transferred to our cell phones or you may reach your client service partner via email. You may drop off materials at our office in the dropbox slot next to our door and one of our staff members will retrieve them. Please do let us know if you have left materials.

We are committed to helping you navigate the tax impacts of COVID-19. Following are the highlights of the recent releases regarding the changes to federal tax return and payment due dates and the mandatory employee paid leave rights. The paid leave rights are complex and evolving. Your particular situation will need to be evaluated to ensure compliance with these new laws.

Federal Income Tax Filing and Payment Relief

[Notice 2020-18](#) expands the relief that was previously provided in Notice 2020-17. For an Affected Taxpayer, the due date for filing Federal income tax returns and making Federal income tax payments due April 15, 2020, (including Q1 2020 Estimated Tax Payments) is automatically postponed to July 15, 2020. Affected Taxpayers do not have to file Forms 4868 or 7004. There is no limitation on the amount of the payment that may be postponed. Following are excerpts from the Notice with that provide the specifics:

III. Grant of Relief

The Secretary of the Treasury has determined that any person with a Federal income tax payment or a Federal income tax return due April 15, 2020, is affected by the COVID-19 emergency for purposes of the relief described in this section III (Affected Taxpayer). The term "person" includes an individual, a trust, estate, partnership, association, company or corporation, as provided in section 7701(a)(1) of the Code.

For an Affected Taxpayer, the due date for filing Federal income tax returns and making Federal income tax payments due April 15, 2020, is automatically postponed to July 15, 2020. Affected Taxpayers do not have to file Forms 4868 or 7004. There is no limitation on the amount of the payment that may be postponed.

The relief provided in this section III is available solely with respect to Federal income tax payments (including payments of tax on self-employment income) and Federal income tax returns due on April 15, 2020, in respect of an Affected Taxpayer's 2019 taxable year, and Federal

estimated income tax payments (including payments of tax on self-employment income) due on April 15, 2020, for an Affected Taxpayer's 2020 taxable year.

No extension is provided in this notice for the payment or deposit of any other type of Federal tax, or for the filing of any Federal information return.

As a result of the postponement of the due date for filing Federal income tax returns and making Federal income tax payments from April 15, 2020, to July 15, 2020, the period beginning on April 15, 2020, and ending on July 15, 2020, will be disregarded in the calculation of any interest, penalty, or addition to tax for failure to file the Federal income tax returns or to pay the Federal income taxes postponed by this notice. Interest, penalties, and additions to tax with respect to such postponed Federal income tax filings and payments will begin to accrue on July 16, 2020.

IV. Effect on Other Documents

This Notice supersedes Notice 2020-17 which granted payment relief (with limits) but not filing relief.

Families First Coronavirus Response Act (FFCRA) (H.R. 6201, IRS Issue Number IR-2020-57, US DOL FFCRA: Employee Paid Leave) Employee Paid Leave Rights

On Wednesday, March 18, 2020, President Trump signed into law H.R. 6201, the "Families First Coronavirus Response Act". The legislation guarantees free coronavirus testing, establishes paid leave, enhances Unemployment Insurance, expands food security initiatives, and increases federal Medicaid funding.

The Act will help the United States combat and defeat COVID-19 by giving all American businesses with fewer than 500 employees funds to provide employees with paid leave, either for the employee's own health needs or to care for family members. The legislation will enable employers to keep their workers on their payrolls, while at the same time ensuring that workers are not forced to choose between their paychecks and the public health measures needed to combat the virus. The provisions are covered in the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act

Also, on March 20, 2020, the U.S. Treasury Department, Internal Revenue Service (IRS), and the U.S. Department of Labor (Labor) announced that small and midsize employers can begin taking advantage of two new refundable payroll tax credits, designed to immediately and fully reimburse them, dollar-for-dollar, for the cost of providing Coronavirus-related leave to their employees. This relief to employees and small and midsize businesses is provided under the Families First Coronavirus Response Act (Act), signed by President Trump on March 18, 2020.

The Act takes effect on **April 2, 2020** and ends on December 31, 2020.

Following are details related to the paid leave provisions.

Background

The Act provided paid sick leave and expanded family and medical leave for COVID-19 related reasons and created the refundable paid sick leave credit and the paid childcare leave credit for

eligible employers. **Eligible employers are businesses and tax-exempt organizations with fewer than 500 employees that are required to provide emergency paid sick leave and emergency paid family and medical leave under the Act.** Eligible employers will be able to claim these credits based on qualifying leave they provide between the effective date and Dec. 31, 2020. Equivalent credits are available to self-employed individuals based on similar circumstances. See the Small Business Exemption below for employers of fewer than 50 employees.

Emergency Family and Medical Leave Expansion Act

Amendments to the Family and Medical Leave Act of 1993. The FMLA expansion requires employers with fewer than 500 employees to provide up to 12 weeks of protected leave (“Emergency Leave”) to eligible employees who are unable to work (or telework) because of the need to care for a child under 18 years of age due to closure of school or the child’s place of care, or if the child care provider is unavailable due to the coronavirus.

Eligible Employee

Employees who have been on the job for at least 30 days

Calculation of Pay

The first 10 days of leave can be unpaid. An employee can opt to substitute accrued vacation, personal or sick leave during this time, but an employer may not require an employee to do so.

For the other 10 weeks, eligible full-time workers must receive two-thirds of their regular rate of pay, which will be capped at \$200 a day (and \$10,000 total).

For part-time employees or those who work irregular schedules, the remaining time must be paid based on the **average number of hours the employee worked for the 6 months prior** to taking Emergency FMLA.

For employees who have worked for less than six months prior to taking Emergency FMLA, the remaining time must be paid based on the **employee’s reasonable expectation at hiring** of the average number of hours the employee would normally be scheduled to work.

Emergency Paid Sick Leave Act

This section requires employers with fewer than 500 employees to provide employees two weeks (80 hours) of paid sick leave if the employee is unable to work (**or unable to telework**) because the employee:

1. is subject to a 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 a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);

5. is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
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.

Part-time employees are entitled to the number of hours the employee works, on average, over a two-week period.

Calculation of Pay

For leave reasons (1), (2), or (3): employees taking leave are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period).

For leave reasons (4) or (6): employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period).

For leave reason (5): employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate (over a 12-week period).

Employers should also note that they cannot:

- Require an employee to use other paid leave before using the paid sick time provided in the new legislation.
- Require an employee to find a replacement to cover his or her scheduled work hours.
- Retaliate against any employee who takes leave in accordance with the act.
- Retaliate against an employee who files a complaint or participates in a proceeding related to the act—including a proceeding that seeks to enforce the act.

Paid-sick-leave benefits will be immediately available when the law takes effect, regardless of how long the worker has been employed.

Employer Notice Requirements

Employers are required to post a notice – to be published by the Department of Labor – in a conspicuous place in the workplace.

Tax Credits for Paid Sick and Paid Family and Medical Leave

Paid Sick Leave Credit

For an employee who is unable to work because of Coronavirus quarantine or self-quarantine or has Coronavirus symptoms and is seeking a medical diagnosis, eligible employers may receive a refundable sick leave credit for sick leave at the employee's regular rate of pay, up to \$511 per day and \$5,110 in the aggregate, for a total of 10 days.

For an employee who is caring for someone with Coronavirus, or is caring for a child because the child's school or child care facility is closed, or the child care provider is unavailable due to the Coronavirus, eligible employers may claim a credit for two-thirds of the employee's regular rate of pay, up to \$200 per day and \$2,000 in the aggregate, for up to 10 days. Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.

Child Care Leave Credit

In addition to the sick leave credit, for an employee who is unable to work because of a need to care for a child whose school or child care facility is closed or whose child care provider is unavailable due to the Coronavirus, eligible employers may receive a refundable child care leave credit. This credit is equal to two-thirds of the employee's regular pay, capped at \$200 per day or \$10,000 in the aggregate. Up to 10 weeks of qualifying leave can be counted towards the childcare leave credit. Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.

Prompt Payment for the Cost of Providing Leave

When employers pay their employees, they are required to withhold from their employees' paychecks federal income taxes and the employees' share of Social Security and Medicare taxes. The employers then are required to deposit these federal taxes, along with their share of Social Security and Medicare taxes, with the IRS and file quarterly payroll tax returns ([Form 941](#) series) with the IRS.

Under guidance that will be released next week, eligible employers who pay qualifying sick or child care leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and child care leave that they paid, rather than deposit them with the IRS.

The payroll taxes that are available for retention include withheld federal income taxes, the employee share of Social Security and Medicare taxes, and the employer share of Social Security and Medicare taxes with respect to all employees.

If there are not sufficient payroll taxes to cover the cost of qualified sick and childcare leave paid, employers will be able file a request for an accelerated payment from the IRS. The IRS expects to process these requests in two weeks or less. The details of this new, expedited procedure will be announced next week.

Examples

If an eligible employer paid \$5,000 in sick leave and is otherwise required to deposit \$8,000 in payroll taxes, including taxes withheld from all its employees, the employer could use up to \$5,000 of the \$8,000 of taxes it was going to deposit for making qualified leave payments. The employer would only be required under the law to deposit the remaining \$3,000 on its next regular deposit date.

If an eligible employer paid \$10,000 in sick leave and was required to deposit \$8,000 in taxes, the employer could use the entire \$8,000 of taxes in order to make qualified leave payments and file a request for an accelerated credit for the remaining \$2,000.

Equivalent childcare leave and sick leave credit amounts are available to self-employed individuals under similar circumstances. These credits will be claimed on their income tax return and will reduce estimated tax payments.

Small Business Exemption

Small businesses with fewer than 50 employees will be eligible for an exemption from the leave requirements relating to school closings or childcare unavailability where the requirements would jeopardize the ability of the business to continue. The exemption will be available on the basis of simple and clear criteria that make it available in circumstances involving jeopardy to the viability of an employer's business as a going concern. The Department of Labor will provide emergency guidance and rulemaking to clearly articulate this standard.

Non-Enforcement Period

The Department of Labor will be issuing a temporary non-enforcement policy that provides a period of time for employers to come into compliance with the Act. Under this policy, The Department of Labor will not bring an enforcement action against any employer for violations of the Act so long as the employer has acted reasonably and in good faith to comply with the Act. Labor will instead focus on compliance assistance during the 30-day period.