



Murdock Martell Update April 1, 2020

Inform Employees of Their FFCRA Rights

Inform your employees of their rights under Family First Coronavirus Response Act (FFCRA) and how to request an Emergency Paid Sick Leave (EPLS) or Emergency FMLA (EFMLA). Follow the process below to ensure you are compliant on April 1, 2020:

- Post the FFCRA poster at each work site and if employees are working remotely, send the notice to employees via email
- Adopt the FMLA Leave Expansion and Emergency Paid Sick Leave Policy
- Identify a dedicated individual in your organization for employees to request EPLS or EFMLA
- Notify employees to contact the dedicated person in your organization to request an EPLS or EFMLA leave, if needed
- Document all COVID requested leaves by requiring employees to complete the leave request forms.
 - Request for Emergency Paid Sick Leave form
 - Request for Emergency Family Medical Leave Act form
- If Murdock Martell provides assistance with payroll processing, your Accounting or Human Resources Consultant can contact the payroll provider to set up or review special pay codes to track paid leaves to assist the client with applying the tax credit appropriately. Suggested pay codes are as follows:
 - **FF-PSL-EE** (Family First Paid Sick Leave Emp)
 - **FF-PSL-FAM** (Family First Paid Sick Leave Family Member)
 - **FF-FMLA** (Family First FMLA)

*Some payroll providers may have already set up pay codes on the client's behalf.

COST SAVING CONSIDERATIONS

FURLoughs

In short, a furlough is an unpaid leave of absence. While furloughed employees still technically retain their jobs, the furlough itself means that they cease working for their employers and do not earn wages. The idea is that this is a temporary arrangement, and workers will one day be able to return to their jobs.

1. If the business will furlough employees, send out notices as soon as possible so employees have time to prepare
 - Murdock Martell can assist you with the formal notifications to employees
2. Determine estimated time of rehire dates for furloughed employees
3. Identify how long the employees will retain their health benefits and include this information in the notice
4. Prepare pay for affected employees on the last day of employment, all wages and vacation or PTO
 - Pay out of vacation or PTO accrual, at the time of the furlough is a company decision. If the furlough duration is undetermined, the conservative approach would be to pay out vacation and PTO balance when the employees are notified
5. Provide employees the state unemployment benefits pamphlets

LAYOFFS

A layoff is typically done when an employer determines that the position(s) must be eliminated for various reasons. Layoffs are not caused by any fault of the employees but by reasons such as lack of work, cash, or material.

1. If the business determines that employees will be laid off, provide notices to employees as soon as possible so employees have time to prepare
2. Will the laid off employees receive severance or extended benefits?
3. Depending upon how many employees and the reasons for the layoff, it may be important to consider the following:
 - Obtain a legal risk assessment
 - Document the layoff selection process
 - Conduct adverse impacts statistic
 - Obtain advice on a Separation Agreement that will be used
4. Prepare pay for affected employees on the last day of employment, all wages and vacation or PTO
5. Notify all affected employees of the layoff
6. Provide employees the state unemployment benefits pamphlets

EMPLOYER TAX CREDITS

Paid Sick Leave

The sick leave credit is limited to \$511 per day per employee if qualified sick leave was taken by the employee for his or her own medical or quarantine needs or \$200 per day per employee if qualified sick leave was taken to provide care for others. In either case, the maximum number of days that may be taken into account in calculating the tax credit is 10 days per employee. There is an aggregate maximum cap of \$5,110 for an employee sick leave and \$2,000 when caring for a family member. In addition, the 10-day per employee cap applies across all quarters in 2020.

Paid FMLA Leave

The paid family leave credit is limited to \$200 per day per employee for COVID-19 leave taken to care for a family member. The credit is capped at 2/3 of the employee's regular pay, with an aggregate cap of \$10,000 per employee. Up to 10 weeks of paid leave payments per employee may be counted toward the family paid leave claimed through a tax credit.

Health Plan Coverage

Both the paid FMLA and the emergency paid sick leave maximum credit amounts may be increased by any amount the employer pays for the health insurance coverage for an employee while the employee is on leave. This means that amounts paid by the employer for health insurance premiums stack on top of the \$2,000, \$5,000, or \$10,000 maximums for sick time or paid family leave payments. This subsidy enhancement is obviously an effort to incentivize employers to maintain health plan coverage so that employees retain coverage during the leave period.

Tax Credit Mechanism

Employers pay their share of the Social Security and Medicare taxes for all employees on IRS form 941 each quarter. Employers also pay the employee's share of Social Security and Medicare taxes that have been withheld from employee paychecks in the same manner. When sick leave and extended FMLA leave payments are made to employees, an employer may offset otherwise required Social Security and Medicare taxes (employer and employee taxes) by an amount equal to qualified leave benefits. This likely will be handled through your payroll provider.

Insufficient Tax Credits for Reimbursement

If tax credits do not fully cover an employer's leave payments for any quarter, the employer may request an expedited advance reimbursement from the IRS. A claim form will be available soon. The IRS will waive penalties for an employer's failure to make a payroll tax deposit if it determines the failure was in anticipation of the receipt of refundable tax credits.

Timing of Credits

Tax credits are computed on a quarterly basis and are available for Q2, Q3 and Q4 2020. Because of the effective date, 15 days after action by the Secretary, enactment will take too long for the credit to have any application to Q1.

Wages and Taxation

The qualified sick leave wages are not "wages" for the employer-portion of the Social Security tax. The legislation has no effect on the employee portion of the Social Security tax, nor does it have an effect on employer or employee-portion of the Medicare tax.