

FFCRA Leave Clarification

Between the final draft and the signed version of the Consolidated Appropriations Act (CAA), the language concerning the extension of the paid leave benefits that were created under FFCRA last March changed slightly and the impact is now much clearer. Since we've had a number of questions about this, our team wanted to provide a clear answer: Congress extended employer tax credits for paid sick leave and expanded family and medical leave voluntarily provided to employees until March 31, 2021; however, the new law did not extend employees' entitlement to FFCRA leave beyond Dec. 31, 2020, meaning employers will no longer be legally required to provide such leave. In simpler terms:

1. The mandate that employers with less than 500 employees must offer paid leave when an employee is unable to work due to COVID-19 ended December 31, 2020. Therefore employers are not required to pay employees who are out of work due to COVID-19 (either for their own exposure/diagnosis, taking care of a family member or school/day care being closed) beginning January 1, 2021.
2. Recognizing that some employers may choose to continue offering paid leave after December 31, Congress is still allowing employers to be reimbursed for those pay expenses with tax credits through March 31, 2021.

One important note: If you choose to continue paid leave, the law did not create a reset or new period for those who had used their paid leave prior to December 31. For example: Your employee Joe missed two weeks in July due to his spouse being sick with COVID (and therefore unable to work). Then on January 3, 2021, Joe tested positive for COVID-19 and is now required to quarantine for the next two weeks. Joe's employer cannot claim any of the pay he received while out of work in January as a tax credit this year since those two weeks were previously used. However, if Joe was only out 5 days in July, the employer would still be able to take the credit for an additional 5 days since he did not use all of his time in July.