



Congress Allows FFCRA Leave to Expire But Extends Tax Credits for COVID-19 Related Leave in Certain Circumstances

At the outset of the COVID-19 pandemic, Congress passed the Families First Coronavirus Response Act (FFCRA) which required employers with less than 500 employees to provide paid leave to employees related to certain coronavirus-related circumstances. The FFCRA was scheduled to expire on December 31, and there was some debate in Congress about extending FFCRA's leave requirements in the negotiations leading up to the passage of the Consolidated Appropriations Act, 2021 (CAA).

Congress chose not to extend the FFCRA's leave mandate so employers are no longer required to provide COVID-19 related leave under federal law. However, Congress encouraged employers to continue to provide COVID-19-related leave to employees by extending the FFCRA's tax credit to covered employers (those with less than 500 employees) who voluntarily provide paid FFCRA leave to eligible employees until March 31, 2021.

To receive the tax credits, employers must comply with the same requirements previously applicable to mandated FFCRA leave. For example, the leave must fit one of FFCRA's qualifying reasons, and employers must continue to adhere to the FFCRA's prohibitions against interference, retaliation, and discrimination. As a refresher, FFCRA provides up to 80 hours of emergency paid sick leave to eligible employees who need time off from work because:

- (a) They are subject to a government quarantine or isolation order related to COVID-19;
- (b) They have been advised by a healthcare provider to quarantine due to COVID-19;
- (c) They are experiencing COVID-19 symptoms and are seeking a medical diagnosis;
- (d) They are caring for someone related to COVID-19; and
- (e) They are caring for a child whose school or place of child care has closed or is unavailable due to COVID-19.

FFCRA also provides up to 10 weeks of partially paid leave for eligible employees who are caring for a child whose school or place of child care has closed or is unavailable due to COVID-19.

There are some nuances to the CAA's impact on the FFCRA leave tax credits, including employees who have previously exhausted their FFCRA leave entitlements in 2020 remain ineligible for tax credit-eligible leave (although leave may still be granted without the tax credit).

**If you have any questions about the continuation of the FFCRA tax credits
or other COVID-19 issues, please contact a member of
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