



Families First Coronavirus Response Act

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Enacted March 18, 2020, the **Families First Coronavirus Response Act** (the “Act”) gives the Internal Revenue Service (“IRS”) a fifteen million dollar budget to provide tax credits to businesses providing employees with paid sick, family and medical leave. The Act aims to provide significant relief for small businesses that cannot afford employee costs associated with coronavirus. Below is a summary of the categories of tax credits and how you or your business may be able to take advantage of the benefits they provide.

<u>Families First Coronavirus Response Act</u>	
Four Categories of Tax Credits	<ul style="list-style-type: none"> • (1) A refundable tax credit equal to 100 percent of qualified paid sick leave wages paid by an employer for each calendar quarter through the end of 2020; <ul style="list-style-type: none"> ○ Tax credit is allowed against the tax imposed by Code Sec. 3111(a) (the employer portion of Social Security taxes). • (2) A refundable tax credit equal to 100 percent of a qualified sick leave equivalent amount for eligible self-employed individuals; <ul style="list-style-type: none"> ○ For individuals caring for a family member or for a child whose school or place of care has been closed due to coronavirus, the bill provides a refundable tax credit equal to 67 percent of a qualified sick leave equivalent amount. • (3) A refundable tax credit equal to 100 percent of qualified family leave wages paid by an employer for each calendar quarter; and <ul style="list-style-type: none"> ○ Tax credit is allowed against the tax imposed by Code Sec. 3111(a) (the employer portion of Social Security taxes). • (4) A refundable tax credit equal to 100 percent of a qualified family leave equivalent amount for eligible self-employed individuals.



Calculating the Tax Credit

- **Requires employers with fewer than 500 employees to provide paid sick leave to employees who are:**
 - (1) forced to stay home due to shelter-in-place orders,
 - (2) forced to stay home due to self-quarantining or
 - (3) forced to stay home to care for a sick family member.
- **However, bill compensates employers for this paid leave in form of tax credits.**
 - Employer to Employee: Employers will receive a refundable credit against its share of old age, survivors, and disability insurance tax (“**OASDI**”) or Railroad Retirement Tax Act (“**RTA**”) for any sick leave wages paid out.
 - Credit can be claimed on a quarterly basis, at a rate equal to 100 percent of the amount of sick leave wages paid out.
 - Total credit is limited to \$200 per day and \$10,000 for all calendar quarters.
 - Daily limit is increased to \$511 if the employee is out sick because he or she is quarantining as a result of a government order, or ordered to quarantine by medical officials or otherwise has symptoms of COVID-19.
 - Family Leave Wages: Employers will receive a refundable credit against any sick leave paid out to employees caring for another individual or child who is experiencing illness.
 - Relief limited to \$200 per day, up to an aggregate credit amount of \$10,000.
 - Self-Employment: Limit on credit is determined by multiplying the number of days the self-employed person is unable to perform his or her job, by the lesser of 67% of the taxpayer’s average daily self-employment income or \$200.
- To determine the total amount of an employer’s qualified sick leave wages for a calendar quarter, the employer can only take into account 10 days per employee, minus the number of days taken into account for that employee for all previous quarters.
- Credit amounts can be increased by the amount of the employer’s group health plan expenses which are “properly allocated” to the qualified emergency leave and sick leave wages.
- Amount of paid sick leave credit that is allowed for a calendar quarter cannot be greater than the employer’s total payroll tax obligations for employee wages. Any excess credit is refundable to the employer.



	<ul style="list-style-type: none"> • Employers who are receiving a credit for paid family and medical leave under the 2017 Tax Cuts and Jobs Act cannot receive the tax credit under the Families First Coronavirus Response Act.
<p>Public Health Emergency Leave Expansion</p>	<ul style="list-style-type: none"> • Expansion of the existing Family and Medical Leave Act (“FMLA”) program to allow eligible employees to take up to 12 weeks of job-protected leave. <ul style="list-style-type: none"> ○ <u>Eligible employees:</u> <ul style="list-style-type: none"> ▪ Employees who are unable to work or telework because they must care for a child (under 18 years of age) whose school or care provider is closed due to a government-mandated COVID-19 emergency; and ▪ Work for an employer with fewer than 500 employees or a government employer and has been on the job for at least 30 days. ○ Small businesses with less than 50 employees can request an exemption if compliance with the expanded leave requirements would jeopardize its business.
<p>Emergency Paid Sick Leave</p>	<ul style="list-style-type: none"> • Covered employers (which includes private sector employers with fewer than 500 employees) must provide employees with <u>two weeks of paid sick time</u> if the employee is unable to work or telework for any of the following reasons: <ul style="list-style-type: none"> ○ The employee is subject to a Federal, State, or local quarantine or isolation order related to the coronavirus; ○ The employee has been advised by a health care provider to self-quarantine due to concerns related to the coronavirus; ○ The employee is experiencing symptoms of coronavirus and is seeking a medical diagnosis; ○ The employee is caring for an individual who is subject to a quarantine or isolation order or advised to self-quarantine by a health care provider; ○ The employee is caring for a child whose school or care provider is closed or unavailable due to coronavirus precautions; or ○ The employee is experiencing any other condition substantially similar to the coronavirus, as specified by the U.S. Department of Health and Human Services.

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Clients with questions about this e-Alert or related issues are welcome to contact the article authors, or the Rutan & Tucker attorney with whom you are regularly in contact.

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