

# Live Q&A Session

June 16, 2020

# Families First Coronavirus Response Act (FFCRA)

*Paid Leaves Refresher*

## FFCRA Paid Leaves – available through 12/31/20

### Distribute/Post the Model Notice if you haven't already

- Available on our website – [dominionpayroll.com](http://dominionpayroll.com)
- Available to all FT, PT and temporary employees through 12/31/20

### Emergency Paid Sick Leave

- Up to 80 hours, taken concurrently
- No waiting period for new hires or rehired former employees
- 6 qualifying conditions, including childcare (see US DOL FAQs, both linked at [dominionpayroll.com](http://dominionpayroll.com)); 100% and 2/3 rate of pay depending on qualifier (max \$511/day and \$200/day)

### Expanded FMLA

- 30 day waiting period -- “You are considered to have been employed by your employer for at least 30 calendar days if your employer had you on its payroll for the 30 calendar days immediately prior to the day your leave would begin.”
- Up to 12 weeks, taken concurrently or intermittently
- One qualifying condition → Childcare (2/3 rate of pay; max \$200/day)

## What if an employee exhausts EFMLA leave and still cannot return to work because childcare is unavailable due to Covid-19?

You aren't *obligated* to allow further time off, but you have a few options:

- Allow the employee to use Emergency Paid Sick Leave if they haven't already
- Allow the employee to use any available PTO
- Allow the employee to request an unpaid Personal Leave of absence, following existing policy if applicable.
- Require the employee to return. If the employee cannot return, their option will be to resign, or they can terminate for failure to return from leave.

Consider what you “have” to do versus what the “right” thing is to do. In other words, terminating an employee because they need an extra week or two to return might not be a great morale booster for their remaining employees and/or their community. Plus you'll have to hire someone else.

Things like this spread quickly in the court of public opinion and could affect your reputation as a company. Keep more than just what the law requires in mind while making this decision and apply your policies consistently!



# EFMLA

## Rehired Employees Are Eligible for Paid Leave Under Extended FMLA.

The CARES Act makes an employee who was laid off on March 1, 2020 or later, and subsequently rehired by the same employer, eligible for paid leave under the extended FMLA, so long as the employee was employed for at least 30 of the last 60 calendar days prior to layoff.

# How do FFCRA paid leaves work with PPP loan funds and forgiveness?

- FFCRA leaves are paid for via dollar-for-dollar, real time tax credits.
- You CAN offer FFCRA leave if you are using PPP loan funds.
- You CANNOT claim FFCRA hours toward PPP loan forgiveness.

## OPTIONS:

1. Employee takes FFCRA; employer takes tax credits. Hours are tracked separately. Expenses are not factored into PPP forgiveness.
2. Employee takes FFCRA; employer pays salary with PPP funds. Once PPP funds are spent, if employee still needs FFCRA leave, employer takes tax credits.

\*Remember: FFCRA leaves are federally-mandated employee rights, which means you have to grant them if the employee qualifies (and you have <500 employees). Read US DOL FAQs for more info.

## But I have < 50 EEs, so I don't have to grant FFCRA leave, right?

An employer, including a religious or nonprofit organization, with fewer than 50 employees (small business) is exempt from providing FFCRA paid leaves **when doing so would jeopardize the viability of the small business as a going concern.**

**A small business may claim this exemption if an authorized officer of the business has determined that:**

1. The provision of paid sick leave or EMFLA would result in the business's expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity;
2. The absence of the employee or employees requesting paid sick leave or EFMLA would entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities; **OR**
3. There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee or employees requesting paid sick leave or EFMLA, and these labor or services are needed for the business to operate at a minimal capacity.



## Small business exemption documentation

So, in short, the exemption is self-determined and self-defended.

There is no place to submit this documentation. The US DOL recommends you document your rationale and keep it on file for up to 6 years in the event that you must defend your decision not to grant FFCRA leave.



The Department of Labor encourages employers and employees to collaborate to achieve flexibility and meet mutual needs, and the Department is supportive of such voluntary arrangements that combine telework and intermittent leave.

# EIDL & EIDL Advance Programs Reopen

- Troubled program reopens to ALL eligible borrowers - small businesses and non-profits.
- Loans may be used for all business expenses - payroll, inventory, debt payments, etc.
- 3.75% for small businesses, 2.75% for non-profits.
- Repayment terms up to 30 years, payments deferred for 1 year.
- EIDL Advance: Up to \$10,000 (\$1,000 per employee) does not have to be repaid.
- PPP Loan forgiveness will be reduced by the amount of your EIDL Advance.

We are answering your questions live on the air right now.

Please submit questions through the **Q&A function**,  
*not the chat option at the bottom of your screen.*



# Questions?

Please email:

[questions@dominionpayroll.com](mailto:questions@dominionpayroll.com)

For resources, updates, webinar schedule, and FAQ's, please visit our

[COVID-19 Updates & Resources page](#)





As requirements change and laws are passed, we will update you as soon as possible.

*Don't forget to wash your hands!*

