



FFCRA Paid Leaves

A Win-Win for Everyone



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with speakers...



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COVID-19 paid leaves and employer tax credits are still available!

The American Rescue Plan Act (ARPA) allows employers to be reimbursed for wages missed due to COVID-19.

April 1 – September 30, 2021

The paid leaves are NOT mandated but are a viable option if you have employees who *should/need* to be out of the office due to COVID-19 or are seeking a vaccine.



Remember...

OSHA's General Duty Clause states:

“Employers have the responsibility to provide a safe and healthful workplace that is free from serious recognized hazards.”

This includes deadly viruses. Using FFCRA paid leaves helps you too.



ARPA-Era FFCRA Paid Leaves in a Nutshell

- April 1 – September 30
- Optional (not federally mandated as they were in 2020) but be consistent!
- Expanded eligibility rules (more on this in a moment)
- Still applies to employers with 500 or fewer employees
- All FT, PT and seasonal employees' bank of hours resets as of April 1



What stays the same?

- Employers with < 500 employees only
- Benefits should continue during paid leaves
- Employers should not discriminate or otherwise retaliate against employees who take paid leave
- Tax credit occurs in real-time via payroll process
- Max amount of tax credit is either \$200 or \$511 per day for Emergency Paid Sick Leave (EPSL), depending on qualifying reason
- Max amount of tax credit is \$200 per day for Emergency FMLA (EFMLA)
- Allow employees to use *before* PTO



What changes?

EPSL

- As of April 1, employees can take EPSL to get the COVID-19 vaccine and to recover from any side effects.
- Employees can take EPSL when seeking or waiting for a COVID-19 diagnosis or test result if they've been exposed to COVID-19 or if the employer has asked them to get a diagnosis or test.
- All employees were eligible for a new bank of leave on April 1. Full-time employees get 80 hours; part-time employees get a prorated amount.
- Employers can't provide EPSL in a manner that favors highly compensated employees or full-time employees or that discriminates based on how long employees have worked for the employer.



What changes?

EFMLA

- Now can be used for *any EPSL reason*, in addition to the original childcare reasons. This includes vaccine reasons.
- The 10-day unpaid waiting period has been eliminated. Now 12 full weeks.
- Max reimbursable tax credit increased to \$12,000 (from \$10,000).
- The law isn't clear as to whether employees are entitled to a **new** 12-week bank of EFMLA. Awaiting guidance. It is possible that an employee will be entitled to additional *unpaid* protected time off.



What changes?

EFMLA, *continued*

- Employers MAY NOT provide EFMLA in a manner that favors highly compensated employees or full-time employees or that is based on how long employees have worked for the employer. (Again, be aware that any inconsistencies in the granting of leave could potentially lead to a discrimination claim.)
- Allow employees to use EFMLA before using PTO if they want to.



Reasons for Using EPSL and EFMLA

As of April 1, employees can take EPSL or EFMLA for the **same set of reasons**, which is a useful simplification.

The following are acceptable reasons for taking these leaves:



Reasons for Using EPSL and EFMLA

1. When quarantined or isolated subject to federal, state, or local quarantine or isolation order
2. When advised by a health care provider to self-quarantine because of COVID-19
3. When the employee is:
 - Experiencing symptoms of COVID-19 and seeking a medical diagnosis
 - Seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19 because they have been exposed or because their employer has requested the test or diagnosis
 - Obtaining a COVID-19 vaccination or recovering from any related injury, disability, illness, or condition



Reasons for Using EPSL and EFMLA

4. When caring for another person who is isolating or quarantining on government or doctor's orders
5. When caring for a child whose school or place of care is closed due to COVID-19

Employees and employers will—in most cases—want to exhaust EPSL first, since it has a higher tax credit, except when used to care for others.



Tax Credit Review

The tax credits available between April 1 and September 30 are the same as under the original FFCRA, except for the increased aggregate cap for EFMLA. Tax credits are available as described below, **regardless of how much EPSL or EFMLA an employee used prior to April 1.**

- The credit available for **EPSL** when used for reasons 1, 2, or 3 (self-care) is up to 100% of an employee's regular pay, with a limit of \$511 per day.
- The credit available for **EPSL** when used for reasons 4 or 5 (care for another) is up to 2/3 of an employee's regular rate of pay, with a limit of \$200 per day.
- The credit available for **EFMLA** for any reason is up to 2/3 of an employee's regular pay, with a limit of \$200 per day and a cap of \$12,000 per employee.



Questions

1. Now that things are opening up and employees are getting vaccinated, everyone wants PTO. How do I balance business needs with supporting the opportunity to relax and recharge?
2. We didn't know about these until now, and some team members took PTO in April to get the vaccine. Can we retroactively apply the tax credits?
3. What if they took PTO before April 1, to get the vaccine?



Submit questions to
questions@dominionpayroll.com

Stay safe out there!

