

Families First Coronavirus Response Act: Q&A to Determine Small Employers Subject to Mandatory Sick Pay or Family and Medical Leave Pay **and** Eligibility for Employers and Self-Employed Individuals to Receive Federal Assistance

The March 18, 2020, Families First Act requires small employers not typically subject to the Family and Medical Leave law to provide two weeks (10 days) of full sick pay for employees directly affected by the COVID-19 virus (*Self-Care Leave*) and 2/3rds regular pay to those somewhat indirectly affected (*Family-Care Leave*), unless telework can be arranged for them. After these two weeks have passed, those employees' families with children requiring their in-home care must continue to be compensated at 2/3rds their regular pay, unless telework can be arranged for them. Tax credits are available through credits on quarterly filing of employer Form 941 to fully reimburse these costs to small employers.

The following questions offer a guide to determine **REQUIREMENTS** of and **BENEFITS** for employers and self-employed people adversely affected by the coronavirus.

- Q1. Are you an employer of less than 500 employees? **Yes ___ No ___ If yes, proceed to Q2**
Are you self-employed with no employees? **Yes ___ No ___ If yes, we are prepared to discuss your specific situation**
- Q2. Do you have at least one employee during the period April 1, through December 31, 2020, who has missed work due to one or more of the following causes? **Yes ___ No ___ If yes, check all that apply. If no, STOP here.**
- Self-Care Leave*
- 1. Quarantined or isolated under order related to COVID-19
 - 2. Advised by a health care provider to self-quarantine due to concerns related to COVID-19 (e.g., exposed to someone diagnosed with COVID-19)
 - 3. Experiencing symptoms related to COVID-19 and seeking a medical diagnosis
- Family-Care Leave*
- 4. Caring for an individual subject to an order (#1 above) or has been advised (#2 above) to quarantine
 - 5. Caring for son or daughter under age 18 if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable due to COVID-19 precautions
 - 6. Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services
- Q3. Have any of the employees identified in Q2 been employed less than 30 calendar days?
Yes ___ No ___ If yes, some benefits may be limited
- Q4. Are any of the employees identified in Q2 eligible for group health plan benefits?
Yes ___ No ___ If yes, some benefits may be increased

The following items offer a guide to determine the **AMOUNT** of mandatory sick or leave pay and the **AMOUNT** of employer and self-employed individuals federal assistance. Be sure to maintain documentation supporting any credits received. (See below for a potential employee request form.)

Item 1. For each employee unable to work (or telework) from April 1, through December 31, 2020, due to *Self-Care Leave* or *Family-Care Leave* conditions small employers are required to provide immediate paid leave of

- Up to 80 hours to full-time employees for the first 10 days of *Self-Care Leave* conditions (the mandatory pay level is the employee's regular pay capped at \$511 per day) or for *Family-Care Leave* conditions (the mandatory pay level is 2/3rds of the employee's regular pay capped at \$200 per day) (A credit is available on Form 941 in an amount equal to 100% of the qualified sick leave wages paid by the employer (capped at \$511 per day for *Self-Care Leave* and at the lower of 2/3rds regular pay or \$200 per day for *Family-Care Leave*.)
- Up to two weeks to part-time employees (based on average hours) for the first 10 days of *Self-Care Leave* or for *Family-Care Leave* conditions (with similar mandates and credits as full-time employees)
- These wages are not subject to employee, nor employer, social security tax (the 6.2% component of the FICA tax)
- IRS Form 7200 may be used to request an advance payment of the tax credits for qualified sick and qualified family leave wages.

Item 2. For each employee unable to work (or telework) from April 1, through December 31, 2020, due to care of a child (*Family-Care Leave #5* above) beyond a 10-day waiting period (which mandate was discussed under Item 1 above) small employers are required to provide paid leave to any employee who has been employed for at least 30 calendar days of

- No less than 2/3rds of their regular full- or part-time pay for a maximum of 10 weeks (50 days) (A credit is available on Form 941 for up to \$200 per individual per day, up to a cumulative \$10,000 for all calendar quarters.)
- These wages are not subject to employee, nor employer, social security tax (the 6.2% component of the FICA tax)
- IRS Form 7200 may be used to request an advance payment of the tax credits for qualified sick and qualified family leave wages.

Item 3. Employers may also be able to reimburse employees for additional costs they incur due to the COVID-19 emergency without reporting those reimbursements as employee wages ("qualifying disaster relief payments").

Please see our MinistryCPA COVID-19 resources (<https://www.ministrycpa.org/resources/covid-19>)

- a. For an employee form to "Request for COVID-19 Paid Family Leave (PFL)" and
- b. A mandatory poster to provide information to employees.

This summary was prepared as a service to the clients of MinistryCPA based on information available April 6, 2020. As conditions are changing rapidly, we disclaim responsibility for non-client use of the information contained in this document. Further assistance is available from our tax professionals or from other tax and human resource professionals.