

THE DEEP DIVE

Exclusive Compliance Insights from MZQ Consulting

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CAA DEEP DIVE SERIES: IMPACT ON THE FAMILIES FIRST CORONAVIRUS RELIEF ACT'S PAID LEAVE PROVISIONS


The Consolidated Appropriations Act of 2020 (CAA) was signed into law by President Trump on December 27, 2020. The Act includes a provision in Section 286 addressing the Families First Coronavirus Relief Act's (FFCRA) paid sick and extended family leave requirements. The FFCRA was enacted initially in March of 2020, and its paid leave provisions are expiring on December 31, 2020. However, the CAA gives employers the option of extending the availability of FFCRA leave through March 31, 2021.

The FFCRA created requirements for certain employers to provide their employees with paid sick leave and family leave for specific qualifying events related to COVID-19 exposure and school and childcare closures. Refundable tax credits for employers have helped offset the cost of employee salaries and health benefits during these periods of paid leave. As the expiration date of December 31, 2020 nears, the new provisions are not merely an extension, instead represent a more nuanced approach by Congress to address the issue. Employers can now voluntarily offer this paid leave and receive the related tax credits through March 31, 2021.

Extending paid leave is an option for employers as of January 1, 2021. Many employers may want to offer paid leave voluntarily. In that case, they need to do so in just the same way that they handled the Emergency Paid Sick Leave Act (EPSLA) and Emergency Family and Medical Leave Expansion Act (EFMLEA) originally. Functionally, the leave criteria and related rules and the tax credits/refunds to employers will remain the same as they have since March of 2020. The change is that employers may choose to provide the leave or not.

An employer that wants to avail themselves of the subsidized paid leave tax credits should keep the following in mind:

1. The CAA appears to limit leave to the original FFCRA leave amounts of 80-hours under EPSLA and 10-weeks under EFMLEA. The new law does not give employees additional paid leave for the first three months of 2021.

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2. The law limits both EPSLA and EFMLA on an individual basis. In other words, if an employee used their allotment of federal leave with a prior employer, then there is no right to receive additional leave at a new employer.
 3. Congress may take another look at leave related to COVID-19 once the Biden administration is in place. There is a real possibility of further changes.
 4. The Internal Revenue Service (IRS) and Department of Labor (DOL) are likely to issue FAQs, which may further clarify the law's intent and practical administration issues.
 5. Employers should consider the impact of state and local leave laws when deciding if they wish to offer voluntary leave.

We will continue to monitor developments and provide any relevant updates as additional information is released.

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