



UNDERSTANDING THE FFCRA

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BROUGHT TO YOU BY:



OVERVIEW



What does FFCRA Require of Employers?



What Makes Employees Eligible?



Two Types of Leave and Six Qualifying Events



Tax Credits for Leave and Benefit Expenses



Exemption for Some Employers with Fewer Than 50 Employees



How Unemployment Interacts with FFCRA



Open Questions?



FFCRA:

([H.R.6201](#))

Family First Coronavirus Response Act

Paid Leave effective April 1st, 2020 to December 31st, 2020

EMPLOYEE ELIGIBILITY

	Paid Sick Leave	Emergency FMLA
Length of Service	All Active Employees Are Eligible	At Least 30 Calendar Days
Length of Leave	Two Weeks	Twelve Weeks (first two weeks unpaid)
Qualification #1	There is Work for the Employee to Do	There is Work for the Employee to Do
Qualification #2	Employee Is Unable to Work or Telework	Employee Is Unable to Work or Telework
Qualification #3	One of Six Covid-19 Related Reasons (covered on next slides)	Caring for a son or daughter if school/day care closed due to COVID–19 precautions
Other Requirements	Notice Documentation	Notice Documentation
EXCEPTIONS	Health care workers (§ 5102(a)) Employees at companies with fewer than 50 employees, IF too burdensome	Health care workers (§ 3102) Employees at companies with fewer than 50 employees, IF too burdensome



PAID SICK LEAVE QUALIFYING REASONS



1. Subject to federal
or state
isolation/quarantine
order related to
COVID-19



2. Advised by
Health Care
Provider to self-
quarantine



3. Experiencing
symptoms and
seeking medical
diagnosis

PAID SICK LEAVE QUALIFYING REASONS



4. Caring for an individual who is sick, quarantined or in isolation



5. **Caring for minor child who is home from school or childcare is closed*** (may also qualify for EFMLA)



6. Experiencing substantial conditions as defined by HHS

TWO TYPES OF PAID SICK LEAVE:

Paid Sick Leave

2 weeks

- ◆ Employed
- ◆ No waiting period
- ◆ If Reasons 1-3:
 - Regular pay, up to \$511/ day (\$5,110 in total)
- ◆ If Reasons 4-6:
 - 2/3 regular pay, up to \$200/day (\$2,000 in total)
 - EE can add any available PTO up to 1/3 of pay, if employer chooses to allow this
- ◆ Pay rate calculated based on 80 hours if full-time, average hours worked if part time

Emergency Family & Medical Leave

12 weeks (10 weeks paid)

- ◆ Employed for a minimum of 30 calendar days
- ◆ 10-day waiting period
- ◆ ONLY Reason is #5: Caring for a minor child at home due to COVID-19 school or child-care closure
 - 2/3 or Regular Pay, up to \$200/ day (\$10,000 in total)
- ◆ Pay rate calculated based on 80 hours if full-time, average hours worked if part time
- ◆ Employee must certify that he/she is the only person available to care for the child(ren)
- ◆ If the child or children are all over age 14, must certify that special circumstances require daytime parental supervision

DOCUMENTATION

- ◆ Required to collect maintain in order to claim tax credit
- ◆ May include:
 - A copy of any quarantine or isolation order that applies to employee or someone s/he is caring for.
 - A note from a health care provider advising employee or someone s/he is caring for to self-quarantine.
 - A notice of school or day care closure that has been posted on a government, school, or day care website.
 - A notice of school or day care closure published in a newspaper.
 - An email from an employee or official of a school or childcare provider announcing a closure.
- ◆ Consider being more flexible with regard to doctors' notes. These may be harder to get as practices become busier treating people who are ill. Some states have already asked employers to stop requesting these.

TAX CREDITS:

- ❖ Employer is eligible to recapture paid leave through tax credits via payroll tax liability – Federal taxes & FICA
- ❖ Dollar for dollar tax offset thru payroll taxes; IRS will issue credit when due
- ❖ Up to the daily and total amounts outlined/employee
- ❖ Health Insurance costs are included in credit – Employer's cost
- ❖ Self-employed are eligible via income tax return or payroll taxes



EXEMPTION FROM LAW

If under 50 Employees



US DOL, issued a non-enforcement period of 30-days



Related to school closures & childcare leave pay,



ONLY when compliance would jeopardize continuation of business

LESS THAN 50 EMPLOYEE EXEMPTION

(CONTINUED)

- ◆ Exemption applies to only two aspects of the FFCRA's provisions — (1) paid sick leave due to school/day care closure and (2) emergency paid leave for the same reason IF complying with those provisions would jeopardize the viability of the business. To claim the exemption, you must determine that one of the following applies:
 - (a) providing the leave would result in the small business' expenses and financial obligations exceeding available business revenues;
 - (b) the absence of the employee or employees requesting such leave would entail a substantial risk to the financial health or operational capabilities of the employer because of their specialized skills, knowledge of the business or responsibilities; or
 - (c) 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 the leave, and these labor or services are needed for the small business to operate.
- ◆ “At a minimal capacity” – Exemption applies if compliance would shut you down. Otherwise, probably not.
- ◆ Even if company qualifies for this exemption, it's still required to comply with Paid Sick Leave provision for the other five qualifying reasons (employee is quarantined or sick, caring for someone who is quarantined or sick, or suffering from a “substantially similar” circumstance).



UNEMPLOYMENT

- ◆ Paid leave requirements don't apply if:
 - Employee was laid off prior to April 1st
 - Business decided to close prior to April 1st
 - Business was forced to close prior to April 1st
- ◆ If business closes or is forced to lay employee off while they are on paid leave, paid leave stops.
- ◆ If any of the above – Employee files for Unemployment
 - Waiting period is waived
 - Increased benefits – in pay \$ and time
 - Eligibility expanded
 - Montanaworks.gov

KEY TAKEAWAYS



*April 1st,
2020*



*Affected by
COVID-
19*



*6 Qualifying
Reasons*



*2 Types of
Paid Leave*



*Tax Credits
OR*



*Exemption
Qualifications*





Using the “Q&A or CHAT” feature in Zoom
(at the bottom of your screen)

OPEN QUESTIONS

RESOURCES



Gallatin City-County Health Department Call Center (406) 548-0123 from 8 AM to 5 PM (MDT) seven days a week. Main Number (406) 582-3100 available for urgent after-hours questions.



[DEPARTMENT OF LABOR FAQs](#)



[INTERNAL REVENUE SERVICE FAQs](#)



[MT UNEMPLOYMENT](#)



[SMALL BUSINESS ASS'N DISASTER ASSISTANCE LOANS](#)



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