

EZRA T. CLARK, III
Attorney
Direct Line: 480-844-0039
Facsimile Line: 480-844-0035
E-mail: etc@clarkfirm.com



63 East Main Street, 5th Floor
Mesa, Arizona 85201

MAILING ADDRESS
P.O. Box 31036
Mesa, Arizona 85275-1036

Cassandra Ferrigno-Bren, Paralegal

EMPLOYER NEWSLETTER

EMPLOYERS GIVEN THE *OPTION* TO EXTEND COVID-19 BENEFITS INTO 2021

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After much political drama, the new COVID-19 stimulus package became law on December 27, 2020. The stimulus package totals \$900 billion for a wide range of existing governmental assistance programs -- including the Paycheck Protection Program, expanded unemployment assistance, and extending tax credits available to employers for COVID-19 related employee benefits under the Families First Coronavirus Response Act (FFCRA).

Optional FFCRA Tax Credits Extended Through March 31, 2021

FFCRA became effective April 1, 2020. It requires covered employers (generally those with *fewer than 500* employees) to provide Emergency FMLA Leave and Emergency Paid Sick Leave to qualifying employees who are unable to telecommute because of specific COVID-19 related reasons. We wrote about FFCRA's main provisions and the U.S. Department of Labor's FFCRA guidance in our previous newsletters. (*Prior newsletter articles can be found at <http://www.clarkfirm.com/newsletters.html>*).

To help employers pay for these mandated benefits, FFCRA provides private employers with a refundable dollar-for-dollar payroll tax credit. The tax credits and leave requirements were originally set to expire on December 31, 2020. The new stimulus package does not extend the FFCRA's requirement that covered employers provide leave benefits. Thus, after December 31, 2020, an employer may decide to end the FFCRA leave benefits entirely. However, employers that *voluntarily decide* to continue to provide leave benefits into 2021 may still do so and receive the tax credit through March 2021.

Evaluating the Decision to Extend FFCRA Benefits (or not).

Employers covered by FFCRA will need to decide quickly whether to end or continue to provide FFCRA benefits through March 31, 2021. In doing so, they should consider the following factors:

- Protecting the Business. The COVID-19 pandemic continues unabated. What is the plan to protect employees, clients, customers and business interest from a large COVID-19 outbreak? Will existing benefits be enough? How many employees will be affected?¹

¹ Even though the tax credit has been extended through March 31, 2020, an employee must be eligible to receive FFCRA benefits. For example, if an employee has exhausted all 80 hours of emergency paid sick leave (EPSL) in 2020, the employee is not eligible to take those benefits in 2021. If the employee used 64 hours of EPSL in 2020, s/he could use only 16 hours through March 31, 2021.

- Financial & Staffing Considerations. Will extending the benefits pose financial or administrative hardships? Will it create staffing shortages? Will it provide incentives for sick employees to work or for otherwise healthy workers to claim the benefit? Are there better ways to deal with the current situation: telework, modified shifts, etc.?

Implementing the Decision

After deciding what to do, employers should revise leave policies as appropriate, notify employees in advance of any leave policy changes, and work with their payroll providers to implement any changes.

Finally, employers should be aware that leave benefits may change as the COVID-19 pandemic continues. With a new Congress and the incoming Biden Administration, federal benefits may be extended or changed in the coming weeks. Stay tuned.

Conclusion

We will continue to monitor this developing situation and provide updates as appropriate. Please let us know if we can help answer your questions or help your business decide whether to extend these benefits. Mr. Clark's contact information is (480) 844-0039 or etc@clarkfirm.com.

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