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# PrestigePEO

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# COVID-19

# We Are Here For You

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# Today's Topics



- COVID-19 background
- Families First Coronavirus Response Act (FFCRA)
  - Emergency Paid Sick Leave Act (EPSL)
  - Expanded Family and Medical Leave Act (FMLA+)
  - Tax Credits
  - FFCRA FAQs
- Coronavirus Aid, Relief, and Economic Security (CARES) Act

❖ All participants are muted. Please type questions in the side navigation panel and we will try to address most questions.

# Background

- The outbreak was first detected in December in Wuhan, China.
- Declared a pandemic on 3/11 and National Emergency on 3/13.
- For most people, the immediate risk of becoming seriously ill from the virus is low.
- Someone who has completed quarantine or has been released from isolation does not pose a risk of infection to other people.
- The latest novel coronavirus is being labeled COVID-19 ('CO' stands for corona, 'VI' for virus, and 'D' for disease)
- As of 3/31, 801,000+ infections have been confirmed in 170 countries and territories
- There are simple things you can do to help keep yourself and others healthy.

# Families First Coronavirus Response Act

## Overview

- Signed into law by President Donald Trump on March 18, 2020.
- Provisions to take effect on April 1, 2020 and end on December 31, 2020.
- Paid and Unpaid Leave for Coronavirus-Related Reasons
  - Emergency Paid Sick Leave Act (EPSL)
  - Emergency Family and Medical Leave Act (Expands FMLA)
- Reimbursement to Employers as Tax Credits

# Emergency Paid Sick leave

- Employers with 1-499 employees
- Benefit applies to ALL employees regardless of employment duration prior to leave
  - No minimum days/hours of employment
- If the Employee is sick, employee is entitled to:
  - Full-time Employees – 80 hours of paid sick leave
  - Part-time Employees – Paid based on the average number of hours the employee worked for the six months prior to taking this paid sick leave.
  - Or, if employed for less than 6 months, the average number of hours per week the employee would normally be scheduled

# Emergency Paid Sick leave

## Qualifying Reasons

Employer must provide paid sick time “to the extent the employee is unable to work (or telework) due to a need for leave because:

1. The employee is subject to a federal, state or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to an order or self-quarantine as described above.
5. The employee is caring for a son or daughter if school or child care is closed/unavailable.
6. The employee is experiencing “any other substantially similar condition” specified by the Secretary of Health & Human Services.

# Emergency Paid Sick leave

## Pay Requirements

- At employee's regular rate for qualifying reasons (1), (2) or (3)
  - Compensated at HIGHER of their regular rate, federal minimum wage or local minimum wage
- At 2/3 the employee's regular rate for qualifying reasons (4), (5) or (6)
- Capped at the following levels:
  - \$511 per day and \$5,110 in the aggregate per person for qualifying reasons (1), (2) and (3).
  - \$200 per day and \$2,000 in the aggregate per person for qualifying reasons (4), (5) and (6).

# Emergency Paid Sick leave

## Cont.

### Additional General Rules:

- Sick leave does not carry over
- Must be granted in addition to any pre-existing paid leave benefits
- Paid sick time must be made available for immediate use by an impacted employee, regardless of the length of such employee's employment
- Employee may first use this paid sick time under this law before other paid leave
- Employer may not require employee to use other paid leave provided by the employer before using this paid sick leave
- Small Business Exemption (less than 50 employees)

# Emergency Family and Medical leave Act

- Employers with 1-499 employees
- Employees to receive paid benefits under EFMLA
- Any employee who worked for employer for 30 days prior to leave and has a qualifying reason is eligible (no requirement of 12 months/1250 hours)
- Secretary of Labor has the authority for good cause to issue regulations:
  - To exclude certain health care providers and emergency responders from the definition of “eligible employee”
  - To exempt small businesses with fewer than 50 employees from the new law when the imposition of such requirements would jeopardize the viability of the business as a going concern
- Qualifying Reason: Employee is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

# Emergency Family and Medical leave Act

## How Does It Work?

- First 10 days of EFMLA may be unpaid
  - An employee may elect to substitute accrued PTO, vacation, or sick leave to cover any portion of first 10 days, if Emergency Paid Sick Leave is exhausted
  - Employer cannot require an employee to substitute such leave
- After the first 10 days:
  - Compensated at 2/3 of the regular rate
  - Part-time employees/irregular schedule entitled to be paid based on average number of hours employee worked in prior 6 months, or if employed less than 6 months, average number of hours employee would normally be scheduled to work
  - Pay capped at \$200 per day and \$12,000 in aggregate per employee

# Emergency Family and Medical leave Act

## Job Restoration/Reinstatement

- If 25 or more employees, same obligation as under traditional FMLA requirements
- If fewer than 25 employees, the traditional job reinstatement provisions of the FMLA may not apply. However, the criteria below should be met:
  - If the employee takes E-FMLA
  - The employee's position held when the leave started no longer exists following EFMLA due to economic downturn or other changes in operating conditions of the employer that are caused by a public health emergency during the period of leave
  - The employer should make a reasonable effort to restore the employee to an equivalent position, with equivalent pay, benefits, and other terms

# EFMLA & Emergency Paid Sick Leave

## Notice Requirements

- Employers: All employers must post a notice regarding the requirements of the law.
- You are not required to post this notice in multiple languages
- You do not have to provide the notice to recently laid off employees or to job applicants but you are required to provide notice to new hires.
- All covered employers must post this notice regardless of whether their state requires greater protections. The employer must comply with both federal and state law.
- Notices must be posted by April 1, 2020

# EFMLA & Emergency Paid Sick Leave

## Tax Credits

- Employers subject to the requirements are entitled to a refundable tax credit equal to the amount of the qualified paid sick leave requirements paid by the employer per quarter.
- The tax credits for qualified Paid Sick Leave wages are capped at
  - \$511 per day per person for qualifying reasons (1), (2) and (3).
  - \$200 per day per person for qualifying reasons (4), (5) and (6).
- The tax credits for qualified EFMLA wages are capped at
  - \$200 per day and \$10,000 per calendar quarter per employee
- The tax credits are applied to the full 941 federal tax liability, Income Tax, Social Security and Medicare
- Tax credits processed through payroll processing to provide immediate tax credit on payroll invoice.

# A Few Things To Keep in Mind

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## State and Local Laws

- Many states and local jurisdictions have their own paid sick days and family and medical leave laws, which may be in addition to these new federal requirements.
- Many states and locals are working quickly to amend their laws and/or add new requirements as well.
- Detailed documentation and medical certification
- Intermittent leave

# Frequently Asked Questions

- What's the difference between a Furlough and a Layoff?
- Is the FFCRA retroactive?
- Are employees that are forced home by a shutdown order excluded from Paid Leave?
- If I am a small business with fewer than 50 employees, am I exempt from the requirements to provide paid sick leave or expanded family and medical leave?
- I have an employee out sick now - what do I do?

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# CARES ACT

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# The CARES Act

## Overview

- The Coronavirus Aid, Relief, and Economic Security (CARES) Act passed by the Senate on March 25 and the House of Representatives Friday, March 27
- The policies included build on previous federal laws passed in response to COVID-19
- The legislation is aimed at providing relief for individuals and businesses that have been negatively impacted by the Coronavirus outbreak

# The CARES Act

## Provisions

- SBA Paycheck Protection Program
- Deferral of Employer Share of Social Security Tax (Payroll Tax Holiday)
- Payroll Tax Credit for Employee Retention
- Expanded Unemployment
- Direct Payments to Individuals
- New 401k Rules

## *SBA Paycheck Protection Program*

- Establishes \$350 Billion for the provision of loans to small business
  - New type of SBA Section 7(a) loans
  - For loans made between February 20, 2020 and June 30, 2020
  - The loans are available for businesses with no more than 500 employees
    - Businesses in hospitality industry with a NAICS code of 72 they are also eligible for a loan as long as they do not employ more than 500 employees per location
    - SBA eligibility guidelines (affiliation rules) to determine whether a business qualifies as small are waived under the provisions of the CARES Act.
- What can they be used for
  - The loans can be used for payroll costs, healthcare, rent, utilities and other debts incurred by the business.
    - Payroll costs exclude leave payments made pursuant to the FFCRA.

## *SBA Paycheck Protection Program*

- How much are the loans?
  - Loan amounts will be available based on a formula.
    - The amount available will be the lesser of average monthly payroll costs during the prior year x 2.5 or \$10 million
- Can The Loans be Forgiven:
  - The federal government will forgive the loans in an amount equal to the amount of qualifying costs spent during the eight week period after the origination of the loan
  - The amount of the forgiveness for the loan will be reduced if the employer:
    - Reduces its workforce during the eight-week period compared to prior periods
    - Reduces the salary or wages paid to an employee by more than 25% during the 8 week period (compared to the most recent quarter)

## *SBA Loan Application*

- The Paycheck Protection Program Application Form is now available.
- The application can be found at the link below:
  - <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Application-3-30-2020-v3.pdf>

# Deferral of Employer Share of Social Security Tax

## (Payroll Tax Holiday)

- Employers may defer employer share of Social Security tax deposits (Code section 3111(a)) due for the period beginning 4/1/2020 on date through 12/31/2020
- Payment schedule for deferred taxes:
  - 50% due 12/31/2021
  - 50% due 12/31/2022
- Deferral option not available if taxpayer has had indebtedness forgiven under new SBA loan forgiveness provisions (discussed later)

## *Employer Payroll Tax Credit* *For Employee Retention*

- Credit is available to any employer:
  1. that was carrying on a trade or business during calendar year 2020, and
  2. with respect to any calendar quarter:
    - had its operations fully or partially suspended under government orders due to COVID-19, or
    - had a decline of at least 50% in gross receipts as compared to the same calendar quarter in the prior year
- Amount of credit:
  - 50% of “qualified wages” with respect to each employee for the quarter
  - Maximum wages taken into account per employee = \$10,000 (max credit \$5,000 per EE)

# *Employer Payroll Tax Credit* *For Employee Retention*

- Qualified wages means:
  - Employers with >100 FTEs
    - wages paid to employees not performing services due to COVID-19-related circumstances (either suspension of operations or reduction in gross receipts)
  - Employers with <100 FTEs
    - all employee wages paid
- Includes employer's "properly allocable" qualified health plan expenses
- Excludes wages taken into account under paid sick/family leave (FFCRA) (those that receive a 100% credit)

# *Employer Payroll Tax Credit*

## *For Employee Retention*

- Credit is taken against employer portion of Social Security taxes (Code section 3111(a)
  - Excess credit is treated as an overpayment that shall be refunded
- Tax-exempt employers treated as eligible employers for purposes of the credit
- No double benefit with:
  - Employer credit for paid family and medical leave (Code section 45S)
- Credit not available if eligible employer receives a covered loan under SBA's new paycheck protection program

# Expanded Unemployment

- Pandemic Unemployment Assistant Program
  - The CARES Act expands unemployment assistance by creating a Pandemic Unemployment Assistance Program through 12/31/2020
  - For weeks of unemployment, partial unemployment, or inability to work caused by COVID-19 between January 27 and December 31, 2020
  - States are receiving funding from the US Government to extend the benefits period by 13 weeks.
  - The Act provides covered individuals with unemployment benefit assistance when they are not entitled to any other unemployment compensation or waiting period.
  - The weekly benefit amount will be determined under state law plus an additional \$600 through July 31, 2020

# Direct Payments to Individuals

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## Direct Payments to Individuals

- Individuals earning less than \$75,000 (\$150,000 for married couples) will receive a \$1,200 direct payment from the federal government. Families in that earning threshold will also receive \$500 for each child. Must have a Social Security Number to be eligible.
- The rebate amount is reduced by \$5 for each \$100 that a taxpayer's income exceeds the phase-out threshold. The amount is completely phased-out for single filers with incomes exceeding \$99,000, \$146,500 for head of household filers with one child, and \$198,000 for joint filers with no children.

# New 401k Rules

## Special Rules for Retirement Plan Relief

- The CARES Act provides for additional relief for individuals with respect to distributions and participant loans under defined contribution plans.
  - A new coronavirus distribution option allows participants to withdraw up to \$100,000 from their 401k plan.
  - The distribution is NOT subject to the early withdrawal of 10%. Employees will pay normal income tax on the distribution but can balance the income taxes over three years
  - Plan participants have 3 years to roll the distribution back into the plan without regard for that year's cap on contributions.
  - The distribution will automatically be subject to 10% federal taxes withheld unless the participant requests that this withholding be waived
  - Required minimum distribution requirements are waived for 2020.

# Questions



## COVID-19 Communications

- Daily support from your HRBPs, Payroll, Benefits, Compliance, & Retirement specialists
- Weekly email updates
- **NEW** website, online resource center and [PrestigePEO.com/COVID-19](https://www.prestigepeo.com/COVID-19) web page
- **NEW** mobile app to link to your dedicated support team instantly



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