



Last night the Dept of Labor and IRS published [Notice IR 2020-57](#) which clarifies more of the Families First Coronavirus Response Act (FFCRA).

The FFCRA created a mandatory emergency paid sick leave (EPSL) and emergency family medical leave (EFML) each with different rules which take effect until December 31, 2020.

EPSL – Emergency Paid Sick Leave

The EPSL mandates that Employers pay EPSL to employees based on the following reasons:

- 1) The employee is subject to a federal, state or local quarantine because of COVID-19
- 2) The employee is been advised to self-quarantine by a medical provider
- 3) The employee is experiencing symptoms to COVID -19 and is seeking medical diagnostics

If the employee falls into one of these categories, fulltime employees would be eligible for up to 80 hours of EPSL paid at 100% their regular rate. Part time employees would be eligible for up to two weeks EPSL based on their regular scheduled hours. Paid at 100% their regular rate.

For employees falling into the above reasons, Employers will be eligible up to \$511 per day refund per employee for a maximum of \$5,110. Cost to provide health insurance (employer contribution) may be included.

2/3 Pay for Employees Under EPSL

Employees who experiencing the following reasons would be eligible for 2/3 of their pay based on the same methodology for full time / part time.

- 1) The employee is caring for an individual subject to self-quarantine
- 2) The employee is caring for a son/daughter is the school is closed and childcare unavailable
- 3) The employee is experiencing any other similar symptoms specified by HHS

Employers will be eligible up to \$200 per day refund per employee for a maximum of \$2,000. Cost to provide health insurance (employer contribution) may be included.



Specifications for EPSL

- No length of employment requirement to be eligible
- Employer cannot require employee find a replacement
- Employee can use the EPSL first before using any banked company paid time off
- EPSL cannot be carried over
- No proof of condition is required (example: sick note)
- **Per the current guidelines there is NO exemption for businesses under 50 employees to provide EPSL and all businesses between 1-499 employees must provide this.**

Emergency Family Medical Leave

The EFML provides emergency leave up to 12 weeks **only** for employees that cannot work due to school and or childcare is not available or is closed. This is a change from prior guidance.

The first 10 days are unpaid; however, this leave can be overlapped with the EPSL. The next 10 weeks are paid to the employee at 2/3 of their wages up to a maximum of \$200 a day or \$10,000 maximum. Cost to provide health insurance (employer contribution) may be included.

Employee Eligibility

Employees must have been employed for 30 days prior to taking EFML.

12 Weeks of Job protection

Employers subject to the EFML must provide employees with a “job protected” status for up to 12 weeks. Employers will have to offer a similar job type if the current position was terminated and must make reasonable efforts to contact the employee if an equivalent position becomes available during the 1 year period beginning the date after the 12 weeks expires or 1 year after the expiration date of the public health emergency order.

Exemptions for Small Businesses with 50 or Less Employees

Small businesses with fewer than 50 employees will be eligible for an exemption from the leave requirements relating to school closings or childcare unavailability where the requirements would jeopardize the ability of the business to continue. The exemption will be available on the basis of simple and clear criteria that make it available in circumstances involving jeopardy to the viability of an employer's business as a going concern. Labor will provide emergency guidance and rulemaking to clearly articulate this standard.

The EFML may be expanded pending future guidance.



EPSL and EFML Tax Credits

The bill allows for Employers to receive a credit against all FEDERAL payroll taxes to offset the cost of the sick wages. If there is not enough tax to offset the total cost of the sick wages, the employer can either claim an accelerated refund from the IRS or wait to get the refund once the 941 is filed at the end of the quarter.

The credit would be considered income to the company.

Example of Payroll Credit:

Example 1: Total Sick Leave was \$2,000 and total Payroll taxes withheld is \$5,000 the amount due to the IRS would be \$3,000

Example 2: If an employer paid \$10,000 in sick wages and was required to deposit \$8,000 in taxes, the employer would owe the IRS nothing for that pay period and could file a request for an accelerated credit for the remaining \$2,000.

How Should You Track These Wages?

The law has not been decided exactly how the enactment works and it's interpretation is changing due to the urgency of supplying guidance. As guidance changes and is supplied we are making changes to our system to record the different credits.

At this time we recommend the following actions by employers:

- 1) Track EPSL based on the three reasons that would provide a 100% wages (temp paid sick)
- 2) Track EPSL based on the three reasons that would provide 2/3 wages (temp fam sick)
- 3) Track EPML based on the 12 weeks due to not being able to work to take care of children due to school closures or childcare unavailable. (temp fmla)
- 4) Do NOT classify these wages or time as administrative leave or anything of the like. Doing so could put you at risk if an employee does not get paid as well as could disqualify you from receiving the tax credit.

Each of these should be tracked separately and not combined. It will be your judgement as to which category the employee falls into based on what the employee tells you.



What is PRS Doing to Help Record These Earnings

Consistency:

PRS will be adding system level earnings and accruals in order to consistently track these items among all of our customers. Due to the volume and timeliness of these changes we will not be customizing these earnings or accruals for either payroll or timekeeping codes.

Earnings

In order to ensure accuracy and swift deployment, PRS has added three new codes to track each one of the three paid leaves.

EPSL paid at 100% the regular rate will use the earning "Temp Paid Sick"

EPSL paid at 2/3 the regular rate will use the earning "Temp Fam Sick"

EPML paid at 2/3 the regular rate capped at \$10,000 will use the earning of "Temp FMLA"

Accruals

PRS will be adding accruals to each client as needed using the following three accrual codes:

For EPSL paid at either 100% or 2/3 the regular rate "EPSL"

For EPML that is unpaid for the first 10 days "EPML UP10D"

For EPML that is paid at 2/3 the regular rate for 10 weeks "EPML P10W"

Tax Credits

At this time we are still in development to how these tax credits will work within the system. We understand the urgency to get this deployed to keep cash in your business. Due to the uncertainty of how Employers will elect credits and or refunds, all Employers electing the tax credits and or refunds will need to sign an authorization and agreement of understanding which will be sent out shortly.

Ongoing Updates and Clarification

This regulation is ongoing and future changes and or clarification may occur. We will update you as we are notified of developing changes.

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