

Administration Begins Implementing COVID-19 Relief Bill

- *Small businesses will not be exempted from all paid sick and family leave requirements.*
- *IRS and DoL will issue guidance and rulemaking shortly clarifying definitions, processes, and exemptions.*
- *IRS expects to be able to provide refunds covering the costs of paid sick and family leave to eligible employers within two weeks of a claim.*

Late yesterday, the Internal Revenue Service (IRS) and the Departments of Treasury and Labor **announced** the **immediate implementation of tax credits to reimburse employers with fewer than 500 employees for sick and family leave** mandated by the Families First Coronavirus Response Act ([H.R. 6201](#)). The Departments outline how employers can receive tax credits for paid sick and family leave for workers affected by the COVID-19 pandemic. While the final word will come from forthcoming guidance issued by the Department of Labor (DoL), it appears as **though small businesses will not be eligible for exemptions from certain paid sick leave provisions** — they may only be exempted from providing the benefit relating to school closings or child care unavailability.

Last Wednesday, March 18, President Trump signed H.R. 6201, which requires employers with fewer than 500 employees to provide two weeks of paid sick leave at full pay (up to \$510 per day) for employees who may have contracted COVID-19, two weeks of paid sick leave at 2/3 pay (up to \$200 per day) to care for an individual under quarantine or a child whose school or place of care is closed, and up to ten weeks paid family leave at 2/3 pay (up to \$200 per day) to care for a child whose school or place of care is closed. The costs of providing this leave, including health plan premiums during the leave, can be claimed as fully refundable payroll tax credits. Self-employed individuals may receive tax credits equivalent to those working for an employer.

Notable portions of the announcement are outlined below:

- **Small Business Exemption** — Employers with fewer than 50 employees may be eligible for an exemption from the requirement to provide leave to care for a child whose school is closed or child care is unavailable in cases where the viability of the business is threatened. DoL will issue emergency guidance and rulemaking relating to establish the standard.
- **Fast Access to Reimbursement** — Treasury announced guidance to be released next week that employees may retain required payroll tax withholdings equal to the costs of providing paid sick and family leave to their employees. The payroll taxes that are available for retention include withheld federal income taxes, the employee share of Social Security and Medicare taxes, and the employer share of Social Security and Medicare taxes with respect to all employees. If an employer is due a refund from the IRS, employers will

be able to request accelerated payment from the IRS. IRS says that it expects to process these requests in two weeks or less, and it will announce details in guidance next week.

- **Grace Period** — DoL will not bring enforcement actions against employers for violations of the new paid sick and family leave provisions for 30 days. During that period, DoL says it will focus on compliance assistance rather than enforcement.

At this time, neither Treasury nor DoL has published regulations or notices in the *Federal Register* regarding the implementation of the law.

- **What's next?** IRS will release guidance next week on how employers may retain payroll taxes to cover the costs of employees using paid sick and family leave. Last night's announcement did not mention guidance regarding exemptions from the paid sick and family leave requirements for health care workers and emergency responders. Under the law, DoL has the authority to issue regulations clarifying the health care provider and emergency responder exemption. Additionally, DoL is required to issue guidelines no later than April 2 on calculations for paid sick time.