FFCRA PAID LEAVE UPDATE:

EMPLOYER TAX CREDITS EXTENDED TO 3/31/21

One area addressed in the recent stimulus package, signed into law on December 27, 2020, is paid leave mandated by the Families First Coronavirus Response Act (FFCRA). FFCRA's mandate for certain employers to provide paid leave and receive a tax credit to reimburse the cost of that paid leave was set to expire on December 31, 2020. While the stimulus package does not extend the mandate for employers to provide paid leave to employees, it does extend the tax credits for employers who choose to continue to offer paid leave for qualifying circumstances.

What is required?

FFCRA had required employers with fewer than 500 employees to provide sick and family leave benefits for certain COVID-19 related reasons. Employers could then receive tax credits to reimburse them for the cost of providing paid leave. **As of January 1, 2021, employers are <u>no longer required</u> to provide paid leave under FFCRA; however, employers <u>may continue to voluntarily provide leave and receive tax credits</u> to reimburse them for paid leave through March 31, 2021.**

The stimulus package does not make any other changes to the law, such as qualifying reasons for leave or caps on employee pay, but the Department of Labor (DOL) and Internal Revenue Service (IRS) may decide to release new guidance regarding voluntary FFCRA leave. Until then, the same rules apply with the exception of the mandate to employers to provide leave.

FFCRA provided full-time employees with a total of 80 hours of paid sick leave (EPSL) and 12 weeks of expanded family medical leave (EFML). Therefore, if an employee used all 80 hours in 2020, they would not be eligible for additional EPSL, and their employer would not be eligible to receive tax credits if they granted additional paid leave. But if the employee used only a portion of their 80 hours, the remainder would be available in 2021. We are awaiting guidance as to whether an employee who exhausted their 12 weeks of EFML would be eligible for additional EFML if their employer's FMLA 12-month period resets before March 31, 2021.

What should employers do?

First, employers must decide whether they will continue to offer paid leave for reasons under FFCRA. Those who continue to offer the benefit should be sure to communicate with their employees and update any written policies they have created to include an end date of March 31, 2021. In addition, employers will need to carefully monitor employee usage of EPSL and EFML to ensure they are eligible to receive tax credits, and of course, apply for those tax credits in order to be reimbursed for providing the paid leave.

For More Information

We will continue to monitor this situation and release updates. For more information or assistance, please contact our Human Resources team at **210–775–6082**, toll-free at **1–888–757–2104**, or **HRManagement@BFGonline.com**.

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