

March 14, 2020

## ***PRESS RELEASE***

### ***Emergency Coronavirus Bill: What Employers Need to Know***

In the early morning hours of March 14, 2020, the United States House of Representatives passed HR Bill 6201 “Families First Coronavirus Response Act”. The bill is now heading to the United States Senate where it is expected to pass within a few days. President Trump has already tweeted his support for HR Bill 6201 and is expected to sign the bill if it passes the Senate. HR Bill 6201 deals with several issues such as immediate public health related matters and funding. However, the bill also contains several provisions relating to paid family medical leave and paid sick leave. This Press Release includes a summary of the bill’s provisions regarding paid Family and Medical Leave and paid sick leave.

**One important point to keep in mind is that, as the current bill is drafted, these provisions only apply to employers who have fewer than 500 employees.** The bill does not address why it was drafted in this way. This may be something that changes as the bill goes through the Senate and to President Trump.

#### **PAID FAMILY MEDICAL LEAVE**

- The bill provides for 12 weeks of, job-protected, paid leave under the Family and Medical Leave Act, of which the first 14 days of the leave may be unpaid.
- Employees may, but are not required to, use accrued personal or sick leave during these first 14 days.
- This leave benefit covers employees who have been working for the employer for at least 30 calendar days.
- Among other uses (such as actual diagnosis or symptoms of Coronavirus), employees may use the leave to: (1) respond to quarantine requirements or recommendations, (2) to care for family members who are responding to quarantine requirements or recommendations, and (3) to care for a child whose school has been closed as a result of the Coronavirus pandemic.

- After the first 14 days, employers must compensate employees in an amount that is **not less than two-thirds of the employees' regular pay**. These requirements only apply if leave is necessary because of one of the Coronavirus related reasons listed above.
- It is illegal for an employer to retaliate against the employee for using the leave.
- The paid Family and Medical Leave provisions will go into effect 15 days after the date the bill is enacted and expires on December 31, 2020.

### **PAID SICK LEAVE**

- Employers will be required to provide full time employees two weeks (80 Hours) of paid sick leave for specific circumstances related to the Coronavirus (i.e. self-isolation, medical visits, etc.).
- Part-Time employees are entitled to receive paid leave in the amount equal to the average number of hours they work over a 2-week period.
- Employers must compensate employees for any paid sick time they take at their regular rate of pay. However, if the paid sick leave is taken to care for a family member suffering from Coronavirus or to care for a child whose school has closed, or childcare provider is unavailable, then the employee receives 2/3<sup>rd</sup> their regular rate of pay.
- The employer must post a notice informing the employees of their rights to leave. This notice must be in a conspicuous location that employees, including job applicants, can access. Additionally, the notice can be located in an employee handbook.
- The bill expressly states that it does not preempt existing state or local paid sick leave entitlements.
- The bill specifically states that the employer may not retaliate against the employee for use of the paid sick leave.
- The paid sick leave provisions will go into effect 15 days after the date the bill is enacted and expires on December 31, 2020.

### **EMPLOYER REIMBURSEMENT**

- The bill provides that employers who pay out for paid emergency sick leave or paid Family and Medical Leave can receive a series of refundable tax credits.

- A refundable tax credit for employers equal to 100% of qualified paid sick leave wages required to be paid by the Emergency Paid Sick Leave Act that are paid by an employer for each calendar quarter. The tax credit is allowed against the employer portion of Social Security taxes.
- A refundable tax credit for self-employed individuals equal to 100% of a qualified sick leave equivalent amount for eligible self-employed individuals who must self-isolate, obtain a diagnosis, or comply with a self-isolation recommendation with respect to coronavirus. For eligible self-employed individuals caring for a family member or for a child whose school or place of care has been closed due to coronavirus, the section provides a refundable tax credit equal to 67% of a qualified sick leave equivalent amount.
- A refundable tax credit for employers equal to 100% of qualified family leave wages required to be paid by the Emergency Family and Medical Leave Expansion Act that are paid by an employer for each calendar quarter. The tax credit is allowed against the employer portion of Social Security taxes.
- A refundable tax credit equal to 100% of the amount of a qualified family leave for eligible self-employed individuals. The credit is allowed against income taxes and is refundable. Eligible self-employed individuals are individuals who would be entitled to receive paid leave pursuant to the Emergency Family and Medical Leave Expansion Act if the individual was the employee of an employer (*i.e.*, not self-employed).

### **CONCLUDING THOUGHTS**

It is important to remember that this bill is not law. It still must pass the United States Senate and be signed by President Trump. These above provisions can create a challenging situation for small businesses. Although there is a mechanism to help compensate the employer, that relief does not come until months later. Additionally, the tax credits do not help cash flow for the business. It is important for business owners to be in contact with their accounting and legal professionals to understand the company's obligations and its impact.