

# *Tax Credits and Provisions*

# Updates to the Families First Coronavirus Response Act (FFCRA)

**March 18th**

President Trump signs the **Families First Coronavirus Response Act** into law, requiring certain employers to provide employees with paid sick leave of expanded family and medical leave for specified reasons related to COVID-19.

## Tax Credits for Paid Family

## Leave (PFL) and Paid Sick Leave (PSL)

**Non-governmental employers <500 employees**

- Credit is equal to >100 percent of the qualified sick and family leave wages that were paid
- The credit is *increased* by certain health expenses, such as employer-paid health plan premiums
  - Plus 1.45% (Employer Medicare Tax)

**Applies to federal employment taxes**

- Typically due within a few days of payroll
- Funds needed to pay sick and family leave payments are able to be provided
- An employer is able to request advance payment of the credit from the IRS

# Maximum Credit Amounts Under the FFCRA

## Under CAA 2021...

Paid sick and paid family leave instructions are **NOT** extended

Employer-provided PSL and PFL credits are now available through March 31, 2021

Credits are subject to the limits listed out in the original FFCRA

### Emergency FMLA Expansion (EFML)

- Full-time employees are entitled up to 12 weeks of leave between April 1-December 31, 2020
  - First 2 weeks may be unpaid
- Remaining 10 weeks are paid at 2/3 employee's regular rate of pay based on hours of work scheduled
- Capped at \$200 daily and \$10,000 in aggregate
- Part-time employees receive a pro-rated amount

### Emergency Paid Sick Leave (EPSL)

- Full-time employees (40 hours per week) are entitled to a maximum of 80 hours
  - Part-time employees are entitled to a pro-rated amount
- The total applies per employee, including if an employee changes employers
- *Leavefor:*
  - Employee's own health is capped at \$511 daily and \$5,110 in aggregate
  - Care for another is capped at \$200 daily and \$2,000 in aggregate

# Employee Retention Tax Credit under the CARES Act

March 27th

The over \$2 trillion economic relief package known as **CARES Act** was passed by Congress and signed into law by President Trump, including \$349 billion for PPP

- Eligible employers are allowed a credit against employment taxes equal to 50% of qualified wages (up to \$10,000) for each employee (\$5,000 maximum per employee)
- Available to wages paid from March 13, 2020 - December 31, 2020
- An employer is eligible if, during any quarter of 2020, it either has had:
  1. Operations fully/partially deferred because of a COVID-19 related governmental order
  2. A decline in gross receipts of greater than 50% in comparison to the same quarter of the year prior
- **Qualified wages** are based on the number of full-time employees:
  - *>100*: Credit for wages paid to employees not providing services during shut-down
  - *<100*: All wages qualify

- ✓ Health plan expenses are eligible, but are counted toward the maximum
- ✗ Employers that receive a loan under the "PPP" program
- ✗ Wages paid under the FFCRA Leave provisions
- ✗ Work Opportunity Tax Credit (WOTC) eligible wages
- ✓ Credit is taken as a payroll tax offset under the same rules that apply to the Families First leave credit

# Employee Retention Tax Credits Modified/Extended by CAA, 2021

December 27th

The Coronavirus Response and Relief Supplemental Appropriations Act is signed into law by President Trump, providing additional critical economic relief to American workers, families and businesses.

## Changes for 2021

- Credit availability is now extended through **June 30, 2021**
- *We are seeing an increase in:*
  - Credit amount from 50% to 70% of qualifying wages
  - Wage cap from \$10,000 in total to \$10,000 per calendar quarter for 2021
  - Large employer for qualifying wages purposes to 500
- *We are seeing an expansion in:*
  - Employer eligibility by decreasing the required decline in gross receipts in any one calendar quarter from 50% to 20% for 2021
  - Eligibility to public instrumentalities

## Retrospective Changes

- Explanation that group health plan expense could be considered even if no other wages are paid
- PPP borrowers could be eligible for the credit to the extent that wages qualified are not paid using forgiven PPP loan proceeds
- Clarified gross receipts for some tax-exempt organizations

# Repayment of Employee Portion of Social Security Taxes



For employees share of Social Security taxes from 9/1/20 to 12/31/20 , u nder CAA 2021, repayment is now extended through December 31, 2021



Employers will still remain liable to collect and pay the entire amount of Social Security taxes deferred



Penalties and interest will begin to accrue starting on January 1, 2022

# Resolution of Tax Issues by CAA 2021



Business meals deduction in 2021 is now 100% up from 50%.



Reversal of recent guidance which required lenders to issue 1099 forms to borrowers that benefited from this program



Resolves tax treatment of both PPP Forgiveness and Debt Relief payment