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Employers Receive Payroll Tax Credit Relief for Emergency COVID-19 Sick Leave

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To help employers cover the cost of paid sick leave or family or medical leave for their employees who miss work for reasons related to the COVID-19 pandemic, the Families First Coronavirus Response Act (H.R. 6201) provides for an employer federal tax credit against the Social Security portion of payroll tax that the employer pays. The act applies to qualified wages paid April 2, 2020, through December 31, 2020.

The amount of the tax credit is equal to 100% of the qualified sick leave wages paid to employees under the act, up to a maximum of $511 in wages per day for employees who are subject to a quarantine order, are self-quarantined or have COVID-19 (or up to a maximum of $200 per day for other employees who receive qualified sick leave pay under the act). Tax credit for qualified sick leave wages is available for up to ten days in the aggregate. Also, the act provides tax credit equal to 100% of the qualified family leave wages paid to employees under the act for COVID-19-related emergency leave up to a maximum of $200 per day for employees who receive qualified family leave wages under the act—not to exceed $10,000 in wages per employee in the aggregate.

The employer tax credit amount may be increased by the amount of the Medicare tax imposed on the qualified sick leave wages and the amount of certain qualified health plan expenses of the employer allocable to the qualified sick leave wages for which the credit is allowed. Employers may not receive the federal tax credit if they are also receiving a credit for paid family and medical leave under the 2017 federal tax reform legislation.

If the employer pays employee benefits that are greater than the amount the employer pays in the Social Security portion of payroll tax, the IRS will send the employer a check for the excess. The intent is for the employer ultimately to not pay out of pocket for any benefits owed to employees under the act. However, the payroll tax credit is available to employers quarterly, so the employer will have to front the benefits to employees and then be reimbursed.

Employers must increase their gross income in the taxable year by the amount of payroll credit received (i.e., there is no double tax benefit). Employers also can elect not to apply the new provision.

The act also provides for comparable tax credits for self-employed persons.