

WILLIAMS, BAX & SALTZMAN, P.C.

Families First Coronavirus Response Act (“FFCRA”)

The COVID-19 crisis is unprecedented and presents new challenges for employers. To assist employers in addressing these challenges, the following will summarize the Families First Coronavirus Response Act (“FFCRA”), which was signed into law on March 18, 2020 and becomes effective on April 2, 2020. The FFCRA is comprised of two primary components that affect employers that have fewer than 500 employees. First, FFCRA expands the Family Medical Leave Act (“FMLA”) and paid sick leave protections for employees that are affected by COVID-19. This includes employees that are stricken with the virus, have to care for family members stricken with the virus, or need to care for their children who are home because of school closures related to the virus.

FFCRA provides for up to 12 weeks of job protected FMLA leave. The first ten days are unpaid, but employees may substitute accrued vacation, personal, or paid sick leave (collectively referred to as “PTO”) during this initial period. Please note that employers cannot require employees to use previously accrued PTO in lieu of FMLA leave. After the first ten days, employers must pay its employees not less than 2/3rds of the employee’s regular rate. This is capped at \$200 per day, and \$10,000 in total.

FFCRA provides job protection for FMLA leave for all employees except for those who work for an employer with fewer than 25 employees. An employee who works for an employer with fewer than 25 employees is not entitled to job restoration to if the position does not exist due to economic conditions or other changes in operating conditions of the employer that are caused by a public health emergency.

FFCRA also grants employees 80 hours of paid sick leave for COVID-19 related illnesses. This sick leave is in addition to any other statutorily or employer provided paid sick leave benefits. Employers must also permit employees, including those covered by a CBA, to use COVID-19 related sick leave before other previously accrued sick leave.

For paid sick leave, if an employee is subject to quarantine or isolation because of federal, state, or local officials, at the direction of a health care provider, or are suffering symptoms, then employers are required to pay the employee at their regular rate or up to \$511 per day, with a total cap of \$5,110. If an employee is caring for someone in their household who has COVID-19 or if a child's school is closed because of COVID-19, then the employer must pay 2/3rds of the employee's rate but capped at \$200 per day, with a total cap of \$2,000.

The second primary component of FFCRA are tax credits available to employers who provide the COVID-19 paid sick leave benefits to employees. The payroll tax credits can be claimed on a quarterly basis and are equal to 100 percent of the amount of sick leave wages paid. The credit is also refundable if it exceeds the amount the employer owes in payroll tax.

Given the fluid nature of the virus as well as the Federal and State governments' reactions, please do not hesitate to contact our office to address any questions or concerns you may have. I can be reached via email at Saltzman@wbs-law.com.