

Families First Coronavirus Response Act and Extension of Time to File and Pay Federal Taxes

As of March 30, 2020, there have been three different acts passed by Congress and signed by the President addressing different aspects of the coronavirus (COVID-19) crisis:

Coronavirus Preparedness and Response Supplemental Appropriations Act enacted March 6, 2020 (Phase 1), (not summarized)

Families First Coronavirus Response Act (“Families First Act”), enacted March 18, 2020 (Phase 2) (summarized below)

Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, enacted March 27, 2020 (Phase 3) (summarized separately)

This summary focuses on the tax aspects of the Families First Act and actions taken by the IRS and Treasury in response to the coronavirus crisis. It is not intended to cover all provisions of the act or its potential impacts.

The information provided is not written or intended as specific tax or legal advice. MassMutual, its subsidiaries, employees, and representatives are not authorized to give tax or legal advice. Individuals are encouraged to seek advice from their own tax or legal counsel. Individuals involved in the estate planning process should work with an estate planning team, including their own personal legal or tax counsel.

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EXTENSION OF TIME TO FILE TAX RETURNS AND PAY FEDERAL TAXES

The IRS has postponed until July 15, 2020, the April 15, 2020 deadline for filing 2019 federal income tax returns due on April 15, 2020 and making federal income tax and estimated income tax payments (including payments of tax on self-employment income). This applies to all taxpayers – including individuals, trusts, estates, partnerships, and corporations. Taxpayers do not need to file for an extension to benefit from the postponement. Taxpayers qualify for the relief even if they have not been affected by COVID-19.

The IRS did not extend the payment or deposit of any other type of federal tax or the filing of any federal information return. No interest or penalties will be imposed if income tax returns or payments due on April 15th are paid by July 15th. However, the 2019 estimated tax requirements and estimated tax penalty have not changed. An unlimited amount of payments can be postponed (prior IRS guidance did limit the amount that could be postponed).

Tax Deadlines Postponed Until July 15, 2020:

- April 15, 2020 date for filing 2019 federal income and gift tax returns
- April 15, 2020 due date for making federal income tax and estimated tax payments (including payments of tax on self-employment income)
- April 15, 2020 deadline for making 2019 IRA and Roth IRA contributions
- April 15, 2020 deadline for employers to make contributions to qualified retirement plans for 2019
- April 15, 2020 deadline for making 2019 HSA and Archer MSA contributions

Tax Deadlines Not Postponed:

- June 15, 2020 deadline for second quarter estimated tax payments (including payments of tax on self-employment income)
- Deadline for filing estate tax returns
- Deadline to withdraw excess elective deferrals and related earnings from an employer-sponsored retirement plan such as a 401(k) plan, 403(b) plan, and SIMPLE IRAs

Various states have extended the time to file and pay state taxes. As of March 27, 2020, the following states have extended the filing and payment deadlines to July 15:

- | | | |
|------------------------|------------------|------------------|
| ▶ Alabama | ▶ Kentucky | ▶ New Mexico |
| ▶ Arizona | ▶ Louisiana | ▶ New York |
| ▶ California | ▶ Maine | ▶ Oklahoma |
| ▶ Colorado | ▶ Maryland | ▶ Pennsylvania |
| ▶ Connecticut | ▶ Massachusetts | ▶ South Carolina |
| ▶ District of Columbia | ▶ Minnesota | ▶ Tennessee |
| ▶ Delaware | ▶ Missouri | ▶ Utah |
| ▶ Georgia | ▶ Montana | ▶ Wisconsin |
| ▶ Illinois | ▶ North Carolina | ▶ West Virginia |
| ▶ Indiana | ▶ North Dakota | |
| ▶ Kansas | ▶ Nebraska | |

The following states changed to other dates:

- ▶ Iowa July 31
- ▶ Idaho June 15
- ▶ Mississippi May 15
- ▶ Oregon April 30
- ▶ Virginia June 1
- ▶ Washington June 15
- ▶ Puerto Rico June 15

Check your state's tax department website for updated information and details about the terms of the changes.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT PROVISIONS

The Families First Coronavirus Response Act (Families First Act) became law on March 18, 2020. It was the second law passed to deal with the coronavirus (COVID-19). The first bill was enacted on March 6, 2020 to provide emergency funding for various federal agencies to respond to the coronavirus emergency.

The Families First Act includes additional emergency funding for various federal departments and agencies; funds nutrition assistance, including continuing meals to students who normally receive meals at schools that are now closed; expands family and medical leave; increases unemployment benefits; provides paid sick leave for many workers; and provides tax credits to employers to offset the cost of the paid sick leave.

EXPANDED FAMILY AND MEDICAL LEAVE

What were the provisions for family and medical leave prior to the Families First Act?

The 1993 Family and Medical Leave Act (FMLA) requires certain employers to provide employees with up to 12 weeks of unpaid leave for medical and family reasons that meet certain requirements.

What expanded FMLA leave is provided under the Families First Act?

Covered employers must provide eligible employees with up to 12 weeks of leave. The first 10 days may be unpaid. The balance of the leave must be paid. Employees may choose to use vacation time, personal leave time, or medical or sick leave for the first 10 days, but cannot be required to do so.

How do you calculate paid leave?

Employees must be paid for up to 10 weeks at an amount that is at least 2/3 of their regular rate of pay and the number of hours that they would normally work, up to \$200 a day and \$10,000 in total. For employees whose hours vary, the hours are based on the average of hours worked per day for the six months ending on the day that the leave starts.

Who is a covered employee?

A covered employer is any employer with fewer than 500 employees. The Department of Labor can exempt small businesses with less than 50 employees from the expanded FMLA leave requirements if providing the leave would jeopardize the viability of the business as a going concern.

What employees are eligible for the expanded FMLA leave?

Any employee employed by the employer for at least 30 calendar days is eligible for the expanded FMLA leave. The Department of Labor can exempt certain health care providers and emergency responders.

What happens when the employee's leave ends?

When the employee's expanded FMLA leave ends, they must be restored to the same or equivalent position. For a position to be equivalent, it must have equivalent pay, benefits, and other terms and conditions of employment. An employer that employs fewer than 25 employees is not required to restore an employee to the same position if the position does not exist due to economic conditions or other changes in the employer's operating conditions caused by the public health emergency. In that situation, the employer must make reasonable efforts to provide an equivalent position. If unable to provide an equivalent position at that time, the employer must make reasonable efforts to contact the employee if an equivalent position becomes available within one year.

What are the provisions for paid sick leave under the Families First Act?

The Families First Act includes the Emergency Paid Sick Leave Act, which requires employers to provide employer-paid sick time for employees who are unable to work (including working remotely) because:

- The employee is subject to a government quarantine or isolation order related to COVID-19;
- The employee was advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
- The employee is caring for someone subject to a quarantine or isolation order related to COVID-19 or who is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
- The employee is caring for a son or daughter if the child's school or day care is closed or the child care provider is unavailable due to COVID-19 precautions; or
- The employee is experiencing any other substantially similar condition specified by the Health and Human Services Secretary.

Employers may elect to exclude employees who are health care providers or emergency responders from the employer-provided sick time.

PAID SICK LEAVE PROVISIONS

Which employers are required to provide paid sick leave?

- Employers required to provide sick leave include:
 - Private entities or individuals that employ fewer than 500 employees
 - Certain government agencies
- The Secretary of Labor may:
 - Exclude certain health care providers and emergency responders from the requirement or allow them to opt out
 - Exempt businesses with fewer than 50 employees from providing paid sick time to employees to care for a child if the child's school or day care is closed or the child care provider is unavailable due to COVID-19 if it would jeopardize the viability of the business as a going concern.

What are the paid sick leave benefits?

- Full-time employees are entitled to 80 hours of paid sick time. Part-time employees are entitled to sick time equal to the average number of hours that they work in a two-week period. Unused paid sick time does not carry over to the following year.

- The maximum paid sick leave cannot exceed:
 - The employee's regular rate of pay, not to exceed \$511, for days that the employee is subject to an isolation order, seeking a medical diagnosis, or recommended to isolate (maximum of \$5,110), or
 - Two-thirds of the employee's regular rate of pay, not to exceed \$200 per day, for any day that the employee is caring for a family member or a child whose school or day care is closed (maximum of \$2,000).
- The amount of the paid sick leave compensation cannot be less than the greater of the (1) employee's regular pay rate, (2) the federal minimum wage rate, or (3) the greater of the state or local minimum wage rate. If the sick leave is for care of family members, the amount of the required compensation described in the previous sentence is reduced by 1/3.
- An employee may use the paid sick time available under the Emergency Paid Sick Leave Act before using other paid leave provided by the employer. Employers cannot require employees to use other paid leave first.
- Paid sick time is available for immediate use, regardless of how long the employee has been employed by the employer. This differs from the expanded family and medical leave act provisions, which require that the employee have worked for the employer for at least 30 calendar days.
- Paid sick time ends when the employee's next scheduled shift after the end of the need for paid sick time.
- Employers cannot discriminate against any employee who takes leave provided under the Families First Act.

PAYROLL TAX CREDITS

What payroll tax credit is available for employers for the emergency sick pay?

The Families First Act provides a payroll tax credit against the employer's portion of Social Security tax and Railroad Retirement Tax.

- Credit equals 100% of qualified sick leave wages paid by employer during the calendar year
- Limits:
 - Qualified sick leave wages considered for the credit cannot exceed
 - \$511 per day for days that the employee is subject to an isolation order, seeking a medical diagnosis, or recommended to isolate or
 - \$200 per day for any day that the employee is caring for a family member or a child whose school or day care is closed.
 - Total number of days considered for the credit per employee is 10 days
- The credit is limited to the amount of Social Security taxes or Railroad Retirement Taxes for the quarter.
- If the credit exceeds the employment taxes due for a quarter, the excess can be refunded to the employer.
- The amount of the credit is added to the employer's gross income to prevent a double benefit because the sick leave wages paid are deductible as a compensation expense.
- Wages required to be paid as emergency sick pay and emergency family leave are not subject to Social Security or Railroad Retirement tax.
- The employer can elect not to have the credit apply.
- The taxes not paid to the Social Security trust funds will be replaced by transferring funds from the general federal budget.
- EFFECTIVE DATES: Applies to wages paid with respect to the period between April 1, 2020 and December 31, 2020.

Does the Families First Act include any provisions for self-employed individuals?

- Self-employed individuals may qualify for an income tax credit for an amount equal to the sick leave credit they could receive if they were an employee of an employer.
- The amount eligible for the credit is the lesser of 67% of the individual's average daily self-employment income for the year, or
 - \$511 per day for days that the self-employed individual is subject to an isolation order, seeking a medical diagnosis, or recommended to isolate, or
 - \$200 per day for any day that the employee is caring for a family member or a child whose school or day care is closed.
 - The average daily self-employment income for the year is the net earnings for the taxable year divided by 260.
- The credit is available for a maximum of 10 days.