GBS Compliance

IRS Notice 2020-54: Reporting Paid Leave Under the Families First Coronavirus Response Act (FFCRA)

July 13, 2020

The COVID-19 epidemic is constantly evolving. The information in this document is based on what known at this time. As things change, we will continue to update you as it affects employee benefits compliance rules.

In July 2020, the IRS issued Notice 2020-54 which describes for employers how to properly report on Form W-2 the amount of qualified sick leave wages and qualified family leave wages paid to employees under the Families First Coronavirus Response Act (FFCRA).

Generally, the FFCRA requires private employers with fewer than 500 employees and certain public employers of all sizes to provide paid leave under specific circumstances related to COVID-19 through two separate provisions: the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act.

Employers must report paid emergency leave either on Form W-2 in text Box 14 or opt to create a separate statement.

On Form W-2 the reporting must be separated as follows:

- The total amount of paid emergency sick leave pursuant to paragraphs (1), (2), or (3). *See below in the background section for a description of these paragraphs.*
    - To label in Box 14, may use this or similar verbiage: "sick leave wages subject to the $511 per day limit".
- The total amount of paid emergency sick leave pursuant to paragraphs (4), (5), and (6). *See below in the background section for a description of these paragraphs.*
    - To label in Box 14, may use this or similar verbiage "sick leave wages subject to the $200 per day limit".
- The total amount of paid emergency family and medical leave wages paid pursuant to section 3102(b)
    - To label in Box 14, may use this or similar verbiage "emergency family leave wages".

If the employer creates a separate statement, the statement must be included with the Form W-2 provided to the employee. If the employee receives an electronic Form W-2, then the statement must be provided in the same manner and at the same time as the Form W-2. To see the model language provided in Notice 2020-54 for the alternative statement, refer to page 8 of the Notice under the subheading "Model Language for Employee Instructions".

Notable Additional information

Box 14 reporting is in addition to regular wage reporting

- Box 14 reporting is in addition to paid wages reported in Boxes 1, 3 (up to the social security wage base), and 5 of Form W-2 (or, in the case of compensation subject to the RRTA, in the amount of RRTA compensation paid to the employee reported in Boxes 1 and 14 of Form W-25).

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Self-employed individuals claiming FFCRA equivalent credits

- Self-employed individuals claiming qualified sick leave equivalent or qualified family leave equivalent credits must report these qualified amounts on Form 7202, included with their income tax returns, and reduce (but not below zero) any qualified sick leave or qualified family leave equivalent credits by the amount of these qualified leave wages. For more information, individuals should seek advice from a tax professional.

Background information on the FFCRA

The Families First Act generally requires private employers with fewer than 500 employees and certain public employers of all sizes to provide paid leave under specific circumstances related to the Coronavirus Disease 2019 (COVID-19) through two separate provisions: the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act.

The Emergency Paid Sick Leave Act requires certain employers to provide employees with up to 80 hours of paid sick leave if the employee is unable to work or telework because the employee:

1) is subject to a Federal, State or local quarantine or isolation order related to COVID19;
2) has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3) is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
4) is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
5) is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child-care provider of such son or daughter is unavailable, due to COVID-19 precautions; or
6) is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretaries of the Treasury and Labor.

Limits for subparagraphs one through three are up to $511 per day and $5,110 total. Limits for paragraphs four through six are 2/3 the employee's regular rate of pay up to $200.00 per day and $2,000.00 total.

Paid Emergency Family and Medical Leave amends the Family and Medical Leave Act and requires certain employers to provide expanded paid family and medical leave to employees who are unable to work or telework because the employee is caring for a son or daughter whose school or place of care is closed or whose child care provider is unavailable for reasons related to COVID-19.

Limits for this leave are up to 10 weeks at two-thirds the employee's regular rate of pay, up to $200 per day and $10,000 total

*For more information on the FFCRA, please see our GBS summary entitled the **Families First Coronavirus Response Act** found here, as well as our easy to use GBS matrix describing the FFCRA emergency paid sick leave and the emergency paid FMLA found here.*

The information is provided as educational material only and is not intended as legal, financial or tax advice. Consult your legal counsel for complete details on your compliance requirements for your plan(s).

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