

# FAMILIES FIRST CORNAVIRUS RESPONSE ACT

## THE ACT HAS THREE PROVISIONS THAT APPLY TO ALL EMPLOYERS:

THE PAID LEAVE DESCRIBED BELOW IS IN ADDITION TO ANY PAID TIME OFF THE EMPLOYEE IS ENTITLED TO UNDER THE EMPLOYER'S CURRENT PAID LEAVE PROGRAM. THE EMPLOYER MAY NOT REDUCE THE EMPLOYEE PAID LEAVE DUE TO THE ADDITIONAL PAID LEAVE PROVIDED UNDER THIS NEW LAW.

**A** Two weeks (up to 80 hours) of paid sick leave at the employee's regular rate of pay where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or

**THIS WILL RESULT IN NO COST TO THE EMPLOYER DUE TO TAX CREDITS**

**B** Two weeks (up to 80 hours) of paid sick leave at two-thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor;

**THIS WILL RESULT IN NO COST TO THE EMPLOYER DUE TO TAX CREDITS**

**C** EXPANDED FAMILY AND MEDICAL LEAVE: Up to an additional 10 weeks of paid expanded family and medical leave at two-thirds the employee's regular rate of pay where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

**THIS WILL RESULT IN NO COST TO THE EMPLOYER DUE TO TAX CREDITS**

**NOTE:** Small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to school closings or child care unavailability if the leave requirements would jeopardize the viability of the business as a going concern.

**NOTE:** GUIDANCE FROM A SEMINAR SAID STAY AT HOME ORDER OR SHETER IN PLACE ORDER IS NOT A REASON THAT TRIGGERS THE ABOVE PAYMENTS

**IMPORTANT OBSERVATION:**

IT DOES NOT APPEAR TO US THAT EITHER OF THE TWO PROVISIONS BELOW COVER EMPLOYEES WHERE "EMPLOYERS" CHOOSE TO CLOSE DOWN.

IT JUST APPEARS TO COVER EMPLOYEES WHO *CANNOT* WORK FOR AN EMPLOYER THAT IS OPEN AND WANTS THE EMPLOYEE TO WORK.

**SHELTER IN PLACE RULE IS NOT A REASON LISTED BELOW**

**EFFECTIVE DATE:**

WAGES PAID UNDER EITHER OF THE TWO LAWS BELOW

FOR THE PERIOD BEGINNING 15 DAYS AFTER THE ENACTMENT DATE OF MARCH 18,2020

WAGES PAID ON:	4/1/2020	THRU	12/31/2020
----------------	----------	------	------------

**FIRST 10 DAYS**

FOR PURPOSES OF <b>A</b> AND <b>B</b> THERE IS NO 10 DAY WAITING PERIOD. FOR <b>C</b> , THE 10 DAY WAITING PERIOD IS SATISFIED BY <b>B</b> , THEN <b>C</b> KICKS IN. SO BASICALLY NO 10 DAY WAITING PERIOD EXISTS.
--

**EMERGENCY FAMILY AND MEDICAL LEAVE:**

**ELIGIBILITY**

- 1 EMPLOYERS WITH FEWER THAN 500 EMPLOYEES
- 2 EMPLOYEES:

All employees of covered employers are eligible for two weeks of paid sick time for specified reasons related to COVID-19. Employees employed for at least 30 days are eligible for up to an additional 10 weeks of paid family leave to care for a child under certain circumstances related to COVID-19
---

<b>THE 30 DAY EMPLOYMENT REQUIREMENT IS FOR THE EMPLOYEES WHO MEET REASON 5 (SEE NEXT PAGE) TO GET THE EXTRA 10 WEEKS. ALL EMPLOYEES GET THE 2 WEEKS FOR NUMBER 5, BUT ONLY THOSE WITH OVER 30 DAYS OF EMPLOYMENT GET THE ADDITIONAL 10 WEEKS. SO NOT ALL EMPLOYEES GET THE EXTRA 10 WEEKS</b>
--

**SICK LEAVE HOURS REQUIRED TO BE PAID**

- 1 FULL-TIME: 80 HOURS
- 2 PART-TIME: AVERAGE HOURS THE EMPLOYEE NORMALLY WORKS IN A TWO WEEK PERIOD

## REASONS THAT CREATE THE MANDATORY SICK LEAVE PAYMENT

- 1** Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;  
**DOES THIS COVER THE ILLINOIS SHELTER IN PLACE? WE BELIEVE IT DOES NOT**
- 2** Has been advised by a health care provider to self-quarantine related to COVID-19;
- 3** Is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
- 4** Is caring for an individual subject to an order described in REASON **1** or self-quarantine as described in REASON **2**;
- 5** Is caring for a child whose school/place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
- 6** "ANY SUBSTANTIALLY SIMILAR CONDITION" SPECIFIED BY THE GOVERNMENT  
**DOES THIS COVER THE ILLINOIS SHELTER IN PLACE? WE BELIEVE IT DOES NOT**

## DURATION OF LEAVE

**For REASONS 1 - 4 and 6:** A full-time employee is eligible for 80 hours of leave, and a part-time employee is eligible for the number of hours of leave that the employee works on average over a two-week period.

**For REASON 5:** A full-time employee is eligible for up to 12 weeks of leave (two weeks of paid sick leave followed by up to 10 weeks of paid expanded family & medical leave) at 40 hours a week, and a part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period. NOTE: FOR THE EXTRA 10 WEEKS 30 DAYS OF PRIOR EMPLOYMENT IS REQUIRED

## AMOUNTS THAT MUST BE PAID

### **1 EMPLOYEES WHO MEET THE REASONS 1, 2 OR 3**

REGULAR RATE OF PAY UP TO \$511 PER DAY  
TOTAL TO ONE EMPLOYEE \$5,110 IN THE AGGREGATE OVER A 2 WEEK PERIOD

### **2 EMPLOYEES WHO MEET NUMBERS 4 OR 6**

2/3 OF REGULAR RATE OF PAY UP TO \$200 PER DAY  
TOTAL TO ONE EMPLOYEE \$2,000 IN THE AGGREGATE OVER A 2 WEEK PERIOD

### **3 EMPLOYEES WHO MEET NUMBER 5**

2/3 OF REGULAR RATE OF PAY UP TO \$200 PER DAY  
TOTAL TO ONE EMPLOYEE \$12,000 IN THE AGGREGATE OVER A 12 WEEK PERIOD

**NOTE THE 30 DAY REQUIREMENT FOR THE EXTRA 10 WEEKS**

## TAX CREDIT AVAILABLE COMPONENTS

### 1 WAGES PAID ON OR AFTER 4/1/2020 FOR THE DURATION AND MAXIMUM AMOUNTS DESCRIBED ABOVE

### 2 EMPLOYER PAID HEALTH CARE PREMIUMS - BUT ONLY IF EXCLUDED FROM EMPLOYEES' WAGES

AT THIS TIME WE DO NOT BELIEVE THIS WOULD INCLUDE S-CORP SHAREHOLDER PREMIUMS PAID BY THE CORPORATION SINCE THEY ARE NOT EXCLUDED FROM THE WAGES OF THE S-CORPORATION SHAREHOLDER

### 3 EMPLOYER SHARE OF MEDICARE TAX (1.45%) OF THE WAGES.

WHEN CALCULATING NET PAY OF ELIGIBLE WAGES:

**A) MEDICARE TAX:** YOU MUST STILL WITHHOLD THE EMPLOYEE SHARE OF MEDICARE (1.45%) AND PAY THE EMPLOYER SHARE (1.45%) AS PER USUAL. THE EMPLOYER SHARE OF THE MEDICARE WILL BE CREDITED BACK AT A LATER TIME.

**B) FICA TAX:** THE WAGES PAID ON OR AFTER 4/1/2020 FOR THE DURATION AND MAXIMUM AMOUNTS DESCRIBED ABOVE ARE **EXEMPT** FROM THE **EMPLOYER AND EMPLOYEE FICA (6.2% EACH)**, SO YOU DON'T NEED TO WITHHOLD THIS AMOUNT OR PAY THE EMPLOYER SHARE.

**C) FEDERAL AND STATE WITHHOLDINGS:** WOULD BE CALCULATED AND WITHHELD/DEPOSITED AS PER NORMAL.

**D) SUTA:** THESE PAYMENTS WOULD BE SUBJECT TO ILLINOIS UNEMPLOYMENT (SUTA) SINCE THERE IS NO CURRENT LAW THAT WOULD EXEMPT THESE PAYMENTS FROM SUTA.

**E) FUTA:** FEDERAL UNEMPLOYMENT (FUTA) IS UNKNOWN, BUT NO EXCLUSION HAS BEEN PROVIDED SO THESE PAYMENTS WOULD ALSO BE SUBJECT TO FUTA.

### 4 CREDITS ARE REFUNDABLE TO THE EXTENT THEY EXCEED THE EMPLOYER'S PAYROLL TAX LIABILITY

THIS MEANS THE CREDITS WILL REDUCE TAX DEPOSIT AMOUNTS ON THE 941

**SEE EMPLOYEE EXAMPLES BELOW.**

### 5 CREDIT IS NOT AVAILABLE IF AN EMPLOYER IS ALREADY RECEIVING THE CREDIT FOR PAID FAMILY LEAVE AND MEDICAL LEAVE

#### EMPLOYEE (EE) EXAMPLES:

	DURATION AVAILABLE	REASON MET FROM ABOVE
EE1 EARNS \$150/DAY. TOOK 5 DAYS OFF TO CARE FOR KIDS (HAS WORKED AT JOB > 30 DAYS)	12 WEEKS*	5
EE2 EARNS \$600/DAY. TOOK TWO WEEKS OFF DUE TO BEING QUARANTINED BY A DOCTOR	2 WEEKS	1
EE3 EARNS \$300/DAY. TOOK TWO WEEKS OFF BECAUSE OF LACK OF WORK	NONE	NONE
EE4 EARNS \$125/DAY. TOOK TWO WEEKS OFF DUE TO FEAR OF THE VIRUS	NONE	NONE

#### ALL THIS OCCURRED ON OR AFTER 4/1/2020

EMPLOYEE 1: ELIGIBLE FOR THE PAYMENT AND EMPLOYER ELIGIBLE FOR THE CREDIT.

EMPLOYEE 2: ELIGIBLE FOR THE PAYMENT AND EMPLOYER ELIGIBLE FOR THE CREDIT.

EMPLOYEE 3: NOT ELIGIBLE FOR PYMT. EMPLOYER MAY PAY EE3 BUT NO CREDIT. EE3 IS ELIGIBLE FOR UNEMPLOYMENT.

EMPLOYEE 4: NOT ELIGIBLE FOR THE PAYMENT AND NOT ELIGIBLE FOR UNEMPLOYMENT SINCE WORK WAS AVAILABLE.

**WAGES PAID ON OR AFTER 4/1/2020**

	<u>EE 1</u>	<u>EE 2</u>	
DAYS PAID	<b>5</b>	<b>10</b>	
REGULAR DAILY WAGES	\$ 150.00	\$ 600.00	
MAXIMUM ALLOWABLE	\$ 200.00	\$ 511.00	THE CREDIT IS LIMITED TO \$200 A DAY OR 2/3 OF
MAX. ALLOWABLE AT 2/3 REGULAR PAY	\$ 100.50	N/A	REGULAR PAY FIRST!

*WE BELIEVE THE CREDIT IS APPLICABLE TO 2/3 OF REGULAR PAY FIRST, THEN THE \$200 LIMIT*

<b>WAGE CREDIT</b>	<b>\$ 502.50</b>	<b>\$ 5,110.00</b>	THIS IS THE MANDATORY PAYMENT REQUIRED
<b>TOTAL WAGES ACTUALLY PAID</b>	<b>\$ 750.00</b>	<b>\$ 6,000.00</b>	THE EMPLOYER IS CHOOSING TO PAY FULL WAGES FOR BOTH EMPLOYEES, BUT IS NOT REQUIRED TO DO SO.

<b>PORTION EXEMPT FROM EE AND ER FICA</b>	<b>\$ 502.50</b>	<b>\$ 5,110.00</b>	ONLY THE MADATORY PAY IS FICA EXEMPT
<b>PORTION SUBJECT TO FICA</b>	<b>\$ 247.50</b>	<b>\$ 890.00</b>	EXCESS PAID BY THE EMPLOYER

WAGES SUBJECT TO FIT AND SIT	\$ 750.00	\$ 6,000.00	EMPLOYER CHOOSES TO PAY FULL WAGES FOR BOTH EEs.
WAGES SUBJECT TO MEDICARE	\$ 750.00	\$ 6,000.00	EMPLOYER CHOOSES TO PAY FULL WAGES FOR BOTH EEs.

<b>MEDICARE TAX ELIGIBLE FOR CREDIT</b>	<b>\$ 7.29</b>	<b>\$ 74.10</b>	ONLY THE MADATORY PAY SUBJECT TO MEDICARE IS PART OF THE CREDIT
---	----------------	-----------------	---

<b>HEALTH INSURANCE PAID BE EMPLOYER</b>	<b>\$ 300.00</b>	<b>\$ 890.00</b>	CALCULATING COULD BE UP TO JUDGMENT AT THIS TIME
--	------------------	------------------	--

<b>HEALTH INS. AVAILABLE FOR CREDIT</b>	25%	43%	PORTION ELIGIBLE FOR REDIT IS THE EMPLOYER-SHARE OF THE PREMIUM RELATED TO THE QUALIFIED WAGES
---	-----	-----	--

THIS ASSUMES THAT EMPLOYEE 1's 5 DAYS IS 25% OF THE MONTH  
IT ASSUMES EMPLOYEE 2's MONTHLY WAGES ARE \$12,000 AND ONLY \$5,110 OF THAT IS RELATED TO THE SICK LEAVE

<b>HEALTH INS. AVAILABLE FOR THE CREDIT</b>	<b>\$ 75.00</b>	<b>\$ 378.99</b>	PORTION APPLICABLE TO THE MANDATORY WAGES
---	-----------------	------------------	---

**CALCULATION OF EMPLOYER CREDIT**

	<u>EE 1</u>	<u>EE 2</u>	<u>TOTAL</u>
WAGES ELIGIBLE FOR THE CREDIT	\$ 502.50	\$ 5,110.00	\$ 5,612.50
MEDICARE TAX ON WAGES ELIGIBLE FOR THE CREDIT	\$ 7.29	\$ 74.10	\$ 81.38
HEALTH INS. AMT RELATED TO WAGES ELIGIBLE FOR CREDIT	\$ 75.00	\$ 378.99	\$ 453.99
<b>TOTAL CREDIT FOR THIS PAY PERIOD</b>	<b>\$ 584.79</b>	<b>\$ 5,563.09</b>	<b>\$ 6,147.87</b>

**TAKING THE CREDIT:**

**FIRST:** REDUCE THE PAYROLL TAX DEPOSIT FOR THE PERIOD THAT INCLUDES THE TAX CREDIT CALCULATED ABOVE FOR THAT PAY PERIOD.

**SECOND:** IF THE CREDIT EXCEEDS THE LIABILITY YOU REQUEST REIMBURSEMENT FROM THE IRS --YET TO BE DETERMINED HOW

**TOTAL LIABILITY ACCOUNTS AFTER THE ABOVE TAX PERIOD FOR ALL EMPLOYEES:**

	<u>LIAB ACCT IN GL</u>
FICA WH	\$ 2,500.00
FICA ER	\$ 2,500.00
MED WH	\$ 600.00
MED ER	\$ 600.00
FIT	\$ 12,000.00
TOTAL LIABILITY	\$ 18,200.00
CREDIT APPLIED	\$ 6,147.87
TAXES PAID BY EFT	\$ 12,052.13

**ADJ JOURNAL ENTRY TO PAY THE TAXES**

	<u>DR</u>	<u>CR</u>
FICA WH	\$ 2,500.00	
FICA ER	\$ 2,500.00	
MED WH	\$ 600.00	
MED ER	\$ 600.00	
FIT	\$ 12,000.00	
CASH		\$ 12,052.13
FAMILY LEAVE CREDITS (NEW REVENUE ACCOUNT!)		\$ 6,147.87

## **SELF EMPLOYED**

The Act also provides for similar refundable credits against the self-employment tax. It covers 100% of a self-employed individual's sick-leave equivalent amount, or 67% of the individual's sick-leave equivalent amount if they are taking care of a sick family member, or taking care of a child following the child's school closing for up to 10 days. The sick-leave equivalent amount is the lesser of average daily self-employment income or either (1) \$511/day to care for the self-employed individual or (2) \$200/day to care for a sick family member or child following a school closing, paid under the EPSLA. (Act Sec. 7002)

Self-employed individuals can also receive a credit for as many as 50 days multiplied by the lesser of \$200 or 67% of their average self-employment income paid under the EMFLEA. (Act Sec. 7004)

## **SMALL BUSINESS EXEMPTION**

Small businesses with fewer than 50 employees will be eligible for an exemption from the leave requirements relating to school closings or child care unavailability where the requirements would jeopardize the ability of the business to continue. The exemption will be available on the basis of simple and clear criteria that make it available in circumstances involving jeopardy to the viability of an employer's business as a going concern. Labor will provide emergency guidance and rulemaking to clearly articulate this standard.