

FFCRA EVOLVING REGULATIONS

EPSL – EMERGENCY PAID SICK LEAVE
EFMLA—EMERGENCY (PAID) FMLA

	4/1/2020 – 12/31/2020	1/1/2021 – 3/31/2021	4/1/2021 – 9/30/2021
QUALIFYING EMPLOYERS	Under 500 employees	Under 500 employees	Under 500 employees
QUALIFYING EMPLOYEES	One day of service for EPSL; one month of service for eFMLA	One day of service for EPSL; one month of service for eFMLA	One day of service for EPSL; one month of service for eFMLA
LEAVE REQUIRED?	Required by law	Voluntary	Voluntary
JOB PROTECTION	Job protected leave	Job protected leave for required isolation or quarantine (even if employer not paying for leave)	Job protected leave for required isolation or quarantine (even if employer not paying for leave)
EMERGENCY PAID SICK LEAVE			
QUALIFYING REASONS	<ul style="list-style-type: none"> Employee positive for COVID-19 or COVID-19 symptoms Employee ordered to quarantine by healthcare provider or government entity To care for family member with COVID-19 or COVID-19 symptoms To care for child under 18 whose school or daycare is closed due to COVID-19 	<ul style="list-style-type: none"> Employee positive for COVID-19 or COVID-19 symptoms Employee ordered to quarantine by healthcare provider or government entity To care for family member with COVID-19 or COVID-19 symptoms To care for child under 18 whose school or daycare is closed due to COVID-19 	<ul style="list-style-type: none"> Employee positive for COVID-19 or COVID-19 symptoms Employee ordered to quarantine by healthcare provider or government entity To care for family member with COVID-19 or COVID-19 symptoms To care for child under 18 whose school or daycare is closed due to COVID-19 To obtain a COVID-19 vaccine To recover from complications from COVID-19 vaccine To await COVID-19 test results
PAY	Up to 10 days of pay (prorated for part-time) <ul style="list-style-type: none"> Paid at 100% of pay for employee’s illness or quarantine. Capped at \$511/day (\$5,110 total). Paid at 2/3 pay for other reasons listed. Capped at \$200/day (\$2,000 total). 	At employer’s discretion. Payroll tax credits are subject to \$5,110/\$2,000 caps and only available in certain circumstances (see below)	At employer’s discretion. Payroll tax credits are subject to \$5,110/\$2,000 caps.
TAX CREDITS	Employer may take a payroll tax credit for any EPSL paid up to the caps.	Employer may take a payroll tax credit for EPSL paid to employees <u>who did not use</u> all 10 days of EPSL in 2020 (subject to caps)	Employer may take a payroll tax credit for up to <u>an additional 10 days of EPSL</u> paid to employees (subject to caps)
EMERGENCY (PAID) FMLA			
QUALIFYING REASONS	To care for a child under 18 whose school or daycare is closed due to COVID-19	To care for a child under 18 whose school or daycare is closed due to COVID-19	Any reason qualifying for Emergency Paid Sick Leave
PAY	Up to 12 weeks of leave, paid at 2/3 pay. Capped at \$200/day and \$10,000 total. First two weeks unpaid.	At employer’s discretion. Payroll tax credits are subject to \$10,000 cap and only available in certain circumstances (see below)	At employer’s discretion. Payroll tax credits are subject to \$12,000 cap and only available in certain circumstances (see below). First two weeks of eFMLA can be paid.
TAX CREDITS	Employer may take a payroll tax credit for any eFMLA paid (subject to caps)	Employer may take a payroll tax credit for eFMLA paid to employees <u>who did not use</u> all 12 weeks in 2020 (subject to caps)	Employer may take a payroll tax credit for eFMLA paid to employees <u>who did not use</u> all 12 weeks prior to 4/1/2021 (subject to caps)
INTERACTION WITH (UNPAID) FMLA	Time taken for eFMLA counts toward 12-week FMLA entitlement	Time taken for eFMLA <u>does not</u> count toward 12-week FMLA entitlement	Time taken for eFMLA <u>does not</u> count toward 12-week FMLA entitlement