



FFCRA Paid Leave to Expire on December 31, 2020; Tax Credits Extended Through March 2021

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Categories:

[Coronavirus Response Team](#)

Authors:

[Catherine F. Burgett](#)

[Jeffrey S. Shoskin](#)

[Steven M. Tolbert, Jr.](#)

As currently enacted, the Families First Coronavirus Response Act (FFCRA) is set to expire on December 31, 2020. Enacted on April 1, 2020, the FFCRA has required covered employers to provide paid sick (EPSL) and family medical (EFMLA) leave to employees for qualifying absences related to COVID-19. Although many anticipated the FFCRA's deadline would be extended when (or if) Congress passed a second stimulus bill, it now appears the December 31, 2020 deadline will not be extended.

On December 21, 2020, after weeks of negotiating, Congress passed the "[Consolidated Appropriation Act, 2021](#)" (the "Act"). The second stimulus bill intends to address the ongoing effects of the COVID-19 pandemic on the economy. Among its 5,500+ pages, the Act spends little time addressing the FFCRA and does not extend the FFCRA's December 31 sunset date. Therefore, FFCRA-covered employers will no longer be required to provide EPSL and EFMLA to qualified employees in 2021. Employers, however, should be mindful of their sick and family leave obligations under applicable state and local laws, as well as their own paid leave policies.

Notably, the Act extends the FFCRA tax credit through March 31, 2021, if an employer voluntarily makes existing EPSL or EFMLA balances (i.e., not previously exhausted) available to its employees after the first of the year. Accordingly, an employer cannot receive a tax credit for any additional EPSL or EFMLA leave time it may decide to grant to employees beyond existing leave balances.

The Act now awaits President Trump's signature. As of the date of this article, the President has threatened not to sign it in its current form.

Frost Brown Todd will continue to monitor and update you on any future amendments to the Act and your FFCRA obligations.

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