

Measures Taken by the Federal Government

IRS Delays Due Date for Taxes

The IRS has announced a postponement of the due date to file and pay federal income tax from April 15 to July 15 – without penalty or interest. The state of Minnesota is expected to follow suit.

Essential Businesses

The Department of Homeland Security released a memorandum on March 19th entitled "<https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>" that includes a list of "Essential Critical Infrastructure Workers" "to help State and local officials as they work to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security."

Of major importance to the auto care industry, the document includes the list of workers that are considered "essential": "Automotive repair and maintenance facilities" and "Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers".

Here is a summary of the relevant portions of the Families First Coronavirus Response Act passed by the U.S. Congress – effective 4/2/2020

Emergency Paid Sick Leave

Employers with fewer than 500 employees and government employers are required to provide two weeks of paid sick leave to their employees for the following reasons:

- (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to coronavirus;
- (2) The employee has been advised by a health care provider to self-quarantine due to concerns related to coronavirus;
- (3) The employee is experiencing coronavirus symptoms and seeking a medical diagnosis;
- (4) The employee is caring for an individual who is subject to an order as described in reason (1) or has been advised as described in reason (2);
- (5) The employee 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 childcare provider of such son or daughter is unavailable, due to the coronavirus;
- (6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Employees who go on Emergency Paid Sick Leave for reasons (1), (2), or (3) will be paid at their regular rate of pay. Employees who use their leave for reasons (4), (5), or (6) will be paid at two-thirds the

employee's regular rate of pay. In no event, however, shall the paid sick leave exceed \$511.00 per day and \$5,110.00 in the aggregate for reasons (1), (2), or (3), or \$200.00 per day and \$2,000.00 in the aggregate for reasons (4), (5), or (6).

Full-time employees are entitled to two weeks (80 hours) and part-time employees are entitled to the typical number of hours they work in a typical two-week period.

Employers cannot require employees to use other paid leave benefits provided by the employer before using Emergency Paid Sick Leave under the Families First Coronavirus Response Act. Employers with existing sick leave policies must provide paid sick leave under the Families First Coronavirus Response Act in addition to the existing leave available.

Employers can receive a payroll tax credit for the qualified sick leave wages paid out by the employer, subject to caps based on the reason for the leave and both daily and quarterly maximums.

Emergency Family and Medical Leave

Employees of employers with fewer than 500 employees and government employers, who have been on the job for at least 30 days, are provided with 12 weeks of Emergency Family and Medical Leave (EFML) for employees unable to work (or telework), due to a need for leave to care for a child of an employee if the child's school or place of care has been closed or if the child care provider is unavailable, due to the coronavirus. This is much more limited than the initial version considered by the House.

The first 10 days of Emergency Family and Medical Leave may be unpaid however, employees may choose to use any accrued paid time off, vacation, sick leave, or Emergency Paid Sick Leave (described below) during this initial 10-day period. After the initial 10-day period the employee will be paid not less than two-thirds of the employee's regular rate of pay for the regular hours worked. In no event, however, shall the paid leave exceed \$200.00 per day and \$10,000.00 in the aggregate.

Employers will receive a payroll tax credit for the qualified sick leave wages paid out by the employer, subject to caps based on the reason for the leave and daily maximums.

Employers are required to restore employees to their same or similar position unless the following conditions are met:

- (1) The employer has fewer than 25 employees;
- (2) The position held by the employee no longer exists due to economic or other operating conditions that affect employment and is caused by the public health condition during the employee's absence;
- (3) The employer reasonably attempts to restore the employee to a similar position;
- (4) If the attempts to restore to a similar position fail, the employer must contact the employee if such a similar position becomes available.

Important – There is a section in the Families First Act for the Secretary of Labor to issue regulations for employers with fewer than 50 employees when the imposition of the requirements of The Emergency Family and Medical Leave Expansion portion of the Act “would jeopardize the viability of the business as an ongoing concern.” However, how and when businesses with fewer than 50 employees will be exempt is currently unclear. Additional regulations on this issue are expected.

This information was current as of 3/19/20. Congressional leaders and the White House are working on different proposals to try to blunt the impact of COVID-19 on the U.S. economy and it's expected a package could be voted on next week. Given the fast changing nature of the nation's response to the COVID-19 pandemic, things will change and we will continue to update you as we learn more.

Note: This content and analysis is for informational purposes only and should not be construed as legal advice. Talk to a qualified attorney licensed for your state before taking any action.