Feds Expand FFCRA Tax Credit Via American Rescue Plan Act and More

While many of the original employment-related provisions of the American Rescue Plan Act were cut over the course of the last few weeks—including a $15 minimum wage and paid leave—the bill does extend the tax credit for voluntary provision of sick and family leave through September 30, 2021.

Signed into law by President Biden on March 11, 2021, the Act also adds reasons employees can qualify for the sick and family leave, including for vaccine appointments and complications due to receiving the vaccine. What is more the previous 80-hour limit for paid sick leave will reset on April 1, 2021, meaning employers who already received a tax credit for a particular employee's 80-hour COVID-19 sick-related leave can do so again after this date.

Further, the Act increases the limits on the credits. For example, it increases the limit on the credit for paid family leave to $12,000.

And, finally, the Act states that these tax credits are only available to employers who uniformly provide such leave to all employees, without discriminating against types of workers.

For more information as to what type of leave otherwise qualifies, including the amount of paid leave associated with this legislation, please see our earlier Special Alert: New Federal Law Enacted Requiring Emergency Paid Sick Leave and Emergency Family and Medical Leave. Other COVID-Related Special Alerts can also be reviewed here.

The Act also expands other tax credits and provides for a 100% COBRA premium subsidy effective April 1, 2021 through September 30, 2021, for those who are involuntarily terminated and want to remain on their employer's health insurance. For more on these updates, please see our partner HUB's publication here.

There are also COVID-19-leave-related developments in California. Specifically, since the federal government did not extend the FFCRA's requirement for employers to provide COVID-19-related paid sick leave, many California municipalities have extended (and often expanded) their so-called "supplemental paid sick leave" ordinances. For example, San Francisco, Oakland, Los Angeles (City and County), Sacramento, Long Beach, San Jose, San Mateo (County), Santa Rosa and Sonoma, have all extended their supplemental leave ordinances, and in many instances have expanded them to apply to employers previously covered by the FFCRA (i.e., those with 500 or fewer employees) and made these ordinances retroactive to January 1, 2021. Readers with operations within these (and perhaps other municipalities with similar ordinances) may wish to examine those local ordinances.

Finally, California is presently considering a bill (SB 95) that would essentially reinstate California's presently expired supplemental paid sick leave law (SPSL) (AB 1867). Similar to the California municipal ordinances mentioned above, SB 95 would expand the SPSL to apply to all employers (not just those with 500 or more employees), would add five additional grounds for which SPSL could be used, and if enacted, SB 95's provisions would apply retroactively to January 1,021. More information about SB 95 and all other employment bills the California Legislature is presently considering can be found in our California Employment Legislative Report from February 2021.

For more information regarding HUB's publication on benefit expansion, contact Dori Wittman mdori.wittman@hubinternational.com