



National Compliance Update

USI EMPLOYEE BENEFITS

July 16, 2020

IRS Issues FFCRA W-2 Reporting Guidance

The IRS issued Notice 2020-54 to help employers properly report 2020 emergency paid sick leave and expanded family medical leave wages paid to employees under the Families First Coronavirus Response Act (“FFCRA”). Employers with less than 500 employees¹ who provided benefits under either leave program will need to separately identify and report FFCRA wages on Form W-2 Box 14² based on the reason the leave was taken as follows:

- Emergency paid sick leave for an employee’s COVID-19 health related issues,
- Emergency paid sick leave taken by the employee for a family member’s COVID-19 health related issues or to care for a child whose place of care is unavailable due to COVID-19, and
- Emergency paid family and medical leave to care for a child whose place of care is unavailable due to COVID-19.

EMERGENCY PAID SICK LEAVE

FFCRA provides up to 80 hours of paid sick leave (at the greater of the employee’s regular rate of pay or minimum wage) to employees who are unable to work (or telework) for one of the following COVID-19 reasons:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to an order as described (1) or has been advised as described in (2).

¹ FFCRA paid leave requirements generally apply to U.S. private employers with less than 500 employees and all public agency employers with 1 or more employees. See <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions> (Q&A 2).

² Employers will continue to report all employee wages on Form W-2 boxes 1, 3 (up to the Social Security Wage Limit) and 5 and separately identify FFCRA sick leave and expanded medical leave wages on Box 14 or in a separate statement.

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 COVID-19 precautions.
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.³

Employers will identify and report FFCRA sick leave wages on Form W-2 Box 14 (or in a separate statement) as follows:

- Sick leave wages for reasons 1-3 shown above with a notation such as “sick leave wages subject to \$511 per day limit.”
- Sick leave wages for reasons 4-6 shown above with a notation such as “sick leave wages subject to \$200 per day limit.”

EXPANDED FAMILY AND MEDICAL LEAVE

The FFCRA provides eligible employees up to 12 weeks of expanded family and medical leave who are unable to work (or telework) because the employee is caring for his or her son or daughter whose school or place of care has been closed or whose childcare provider is unavailable due to COVID-19 related reasons. During the first two weeks of unpaid leave, the employee may use FFCRA paid sick leave, at 2/3 of the employee’s regular rate of pay (up to \$200 per day), when the employee is unable to work (or telework). After the first two weeks, up to an additional 10 weeks of expanded family and medical leave may be paid at 2/3 of an employee’s regular rate of pay (up to \$200 per day), for an employee who has been employed for at least 30 calendar days.

Employers will report expanded family and medical leave wages on Form W-2 Box 14 (or in a separate statement) with a notation such as “emergency family leave wages”.

EMPLOYER NEXT STEPS

Employers should work closely with their payroll vendor and tax advisor to ensure proper reporting of any wages paid to employees under the FFCRA. If employers will be identifying the FFCRA wages in a separate statement (rather than on Form W-2 Box 14) and the employee receives a paper Form W-2, then the statement must be included with the Form W-2 provided to the employee. If the employee receives an electronic Form W-2, then the statement must be provided in the same manner and at the same time as the Form W-2.

RESOURCES

- IRS Notice 2020-54: <https://www.irs.gov/pub/irs-drop/n-20-54.pdf>
- COVID-19-Related Tax Credits for Required Paid Leave Provided by Small and Midsize Businesses FAQs: https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs#allocable_qualified_health_plan_expenses
- FFCRA Q&As: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

³ To date, the U.S. Department of Health and Human Services has not yet specified any other such conditions.

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