



Dear Valued Client,

In the wake of the sweep of the coronavirus (COVID-19) across the United States, President Donald Trump has signed the first Federal law mandating paid sick leave. In addition, for the first time, the Family and Medical Leave Act (FMLA) has a paid component.

The original bill passed the House of Representatives in the early morning of March 14th and underwent revisions on March 16th. The Senate passed its version of the bill on March 18, and President Trump signed the legislation Wednesday night.

The law provides paid sick leave, unemployment benefits, free coronavirus testing, and food and medical aid to people affected by the pandemic. A discussion of the provisions impacting payroll follows:

Emergency Family and Medical Leave Expansion

This section of the law expands employee leave beyond the original FMLA protections. Employees of private sector employers with fewer than 500 employees may now take up to 12 weeks of leave for “a qualifying need related to a public health emergency” if they have been on the employer’s payroll for 30 calendar days. The leave may be taken any time in 2020.

The first 10 days will be unpaid leave, during which time the employee may use their PTO. After 10 days, the employee must be paid 2/3 of their regular pay up to a daily cap of \$200 and a \$10,000 cap for the ten weeks of paid leave.

A “qualifying need” is limited to circumstances where an employee is unable to work (or telework) due to caring for a minor child if the child’s school or place of childcare has been closed. This is a dramatic scaling back from an earlier version of the bill, which would have provided extended FMLA for a far broader range of COVID-19-related reasons.

Emergency Paid Sick Leave

This section of the bill mandates private-sector employers of less than 500 employees to provide 2 weeks (80 hours) of **paid sick leave, paid at the employee’s regular rate (or minimum wage if higher) up to a daily cap of \$511, and a 2-week cap of \$5,110.** If the employee takes the leave to care for a sick family member or for a child whose

school is closed, the maximum benefit is the regular rate (or minimum wage if higher) up to \$200 per day, and \$2,000 for the entire 2 weeks.

Within 7 days of the enactment of this law, the US Department of Labor must create a model notice for employers to provide to their employees.

Employers can require employees who have received at least one day paid sick leave due to COVID-19 to provide reasonable notice as to their health status as a condition of continuing to be able to use this paid sick leave.

Tax Credits

The bill provides refundable tax credits for employers to offset the costs of paying the emergency sick leave and/or paid FMLA leave required under the Act. The credits also apply to self-employed individuals.

Employers may offset their share of social security (but not Medicare) taxes by the amount of paid sick leave and paid FMLA leave they provide under this law. Further details of this offset will appear in upcoming Viventium updates.

Upcoming Legislation

Congress is currently drafting another economic stimulus package that would send direct payments to taxpayers and provide loans to businesses. Similarly, the Treasury Department proposed two rounds of checks to be sent directly to taxpayers on April 6 and May 18. Size of payments would vary based on income and family size, but the total of each round would be \$250 billion.

COVID-19 legislation is rapidly evolving, and we are committed to keeping you up to date. Viventium will continue to monitor the developments. Please visit the [Viventium Coronavirus \(COVID-19\) Update Center](#) for the latest updates.

In it with you,

Viventium