COVID-19 Update
Extended Payroll Tax Credits for Paid Leave

February 10, 2021

As described in prior summaries provided by Wespath Benefits and Investments (Wespath) and the General Council on Finance and Administration (GCFA),[1] the Families First Coronavirus Response Act (FFCRA) passed in 2020 required most employers with fewer than 500 employees to provide paid sick leave and expanded family and medical leave related to COVID-19. The FFCRA also provided such employers with tax credits[2] to support the new leave. Both Wespath and GCFA have previously issued guidance on the FFCRA's leave requirements and tax credits. This **February 2021 Update** summarizes the impact of the recently passed Consolidated Appropriations Act, 2021 (CAA)[3] on the FFCRA, including an extension and expansion of the tax credit.

Tax Credit Extension

The FFCRA's leave mandates expired on **December 31, 2020**. This means employers are no longer *required* to provide the paid sick leave and expanded family and medical leave related to COVID-19 specified in the FFCRA. However, the CAA extended the FFCRA's tax credits through **March 31, 2021**, as an incentive for employers to voluntarily continue to provide such paid leave. Accordingly, employers, including churches and other religious employers, that voluntarily provide such leave through March 31, 2021, may be eligible for a tax credit to offset the cost.

The CAA did not make any substantive changes to the FFCRA's provisions that impact the type and amount of leave that are eligible for a tax credit. In other words, the tax credit is only available with respect to leave that would have been required under the FFCRA had the mandate not expired. However, the tax credit is not available for leave provided in 2021 to an employee who previously exhausted FFCRA-required leave[4] in 2020.

Please note: For tax-exempt organizations that maintain an unrelated trade or business, there are special rules for allocating the FFCRA tax credits between the tax-exempt organization and the unrelated trade or business.[5]

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[1] See the links provided at the end of this document.

[2] The employer tax credits, which are refundable, would be applied against the employer portion of Social Security taxes (FICA) for each quarter and would be equal to the "qualifying" paid leave wages paid by the employer. Because these tax credits are applied against employment taxes, even tax-exempt employers—including most United Methodist Church-related employers—could benefit from them.

[3] These provisions were in Sections 286 - 288 of the COVID-related Tax Relief Act of 2020, which was included in the CAA.

[4] In 2020, FFCRA-eligible full-time employees were entitled to 80 hours of paid sick leave and part-time employees were entitled to paid sick leave for "a number of hours equal to the number of hours that such employee works, on average, over a 2-week period." In addition, the FFCRA expanded the Family and Medical Leave Act (FMLA) to require covered employers to provide up to 12 weeks of job-protected leave paid at the rates specified by the FFCRA.

[5] See Internal Revenue Service FAQ 50a available here (note that the numbering of the FAQs may change over time as the IRS adds new FAQs).

Tax Credit Expansion—*Retroactive Applicability to Clergy*

The FFCRA originally limited the tax credit to leave wages paid to employees who are subject to FICA taxes. Clergy are *not* subject to FICA taxes. The CAA retroactively amended the FFCRA to expand the credit to cover paid leave for other categories of wages, *including wages paid to clergy*. This means that local churches may be able to claim the tax credit for qualified leave paid to clergy **between April 2, 2020 (i.e., the original effective date of the leave provisions under the FFCRA) and March 31, 2021**. The IRS is expected to release additional guidance regarding this expansion of the credit. [6]

Other COVID-Related Relief and Requirements

The CAA also extended and expanded the Coronavirus Aid, Relief and Economic Security Act (CARES Act) provisions regarding the Employee Retention Credit (ERC) and Paycheck Protection Program (PPP). [7] An employer may claim both the ERC and FFCRA credits, but not for the same wages to prevent redundancy of benefits. See IRS Instructions for *Form 7200*. In addition, receiving FFCRA credits does not disqualify an eligible recipient from receiving a PPP loan. However, the IRS has explained that “the amount of the PPP loan is reduced by the amount of the qualified leave wages for which an employer is allowed tax credits, and those wages are not eligible as ‘payroll costs’ for purposes of receiving loan forgiveness under the PPP.”

Finally, note that the CAA and FFCRA are federal laws, and the sunset of the FFCRA-mandated leave does not impact leave requirements under state and local laws. Employers may have continuing obligations related to paid leave under such laws.

Additional Resources

Families First Coronavirus Response Act (FFCRA)
- FFCRA Summary
- FFCRA Q&A

Paycheck Protection Program (PPP)
- PPP Summary
- PPP Q&A

Employee Retention Credit (ERC)
- ERC Update under Consolidated Appropriations Act, 2021

More Information Related to COVID-19
- General Council on Finance and Administration
- Wespath Benefits and Investments

The information above should not be considered legal or tax advice. Plan participants, annual conferences, local churches, or other employers or parties affiliated with The United Methodist Church (UMC) should consult with counsel and other advisors in considering the application of the coronavirus-related laws and guidance to their circumstances.

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[6] See Internal Revenue Service FAQ 54a here.

[7] For more details regarding the ERC and PPP, see the additional resources listed at the end of this document.