



AMERICAN RESCUE PLAN EXTENDS EMPLOYER TAX CREDITS FOR FFCRA LEAVE

March 15, 2021 | Alert

We previously reported that the U.S Department of Labor published guidance stating that while employers are *not required* to provide employees with paid leave under the Families First Coronavirus Response Act (FFCRA) after December 31, 2020, employers may *voluntarily* decide to provide such leave. Importantly, the Consolidated Appropriations Act, 2021 extended employer tax credits for paid sick leave and expanded family and medical leave voluntarily provided to employees until March 31, 2021.

On March 11, 2021, President Biden signed the American Rescue Plan, which did not include any additional mandates under the FFCRA, however, it did include the following provisions:

- Extends the tax credits available for employers who voluntarily provide FFCRA leave from March 31, 2021 to September 30, 2021.
- Provides that the tax credits are available for paid sick leave and paid family leave provided for the additional following qualifying reasons:
 - an employee obtaining a COVID-19 vaccination;
 - an employee recovering from any injury or illness related to a vaccination; or
 - an employee is seeking or awaiting the results of a diagnostic test or medical diagnosis for COVID-19 (or the employer has requested such a test or diagnosis).
- Includes non-discrimination rules to provide that no tax credit is available if the employer discriminates against highly compensated employees, full-time employees, or employees on the basis of seniority when determining eligibility for the leave. This is designed to ensure that employers provide the benefits in a uniform manner to all categories of employees.

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- Re-sets the 10-day limit for the tax credit for paid sick leave under the FFCRA beginning April 1, 2021. As a result, an employer could voluntarily provide an additional 10 days of FFCRA paid sick leave beginning April 1, 2021 to those employees who previously exhausted their benefits and to which the employer previously received the tax credits.

Again, employers are not required to offer these benefits, but the tax credits are available for those who eligible employers who offer them. Please contact the attorneys in our Labor & Employment Group for more information.