

Impact of COVID-19 on Small Businesses

The [Families First Coronavirus Response Act](#) requires that small businesses with fewer than 50 employees provide 2 different kinds of paid leave:

I. Emergency Paid Coronavirus-Related Leave

For the remainder of calendar year 2020, small businesses are required to provide 80 hours of emergency paid leave to full-time employees and a pro-rated amount of leave to part-time employees, if the employee cannot work for any of the following reasons:

1. The employee is under a quarantine / isolation order issued by a state, local, or federal official.
2. The employee has been advised by a healthcare provider to self-isolate due to coronavirus.
3. The employee is experiencing symptoms of coronavirus and is seeking medical treatment.
4. The employee is caring for an individual who is under a quarantine order or has been advised to self-isolate.
5. The employee needs to take leave because their child's school is closed or child care provider is unavailable due to the coronavirus.
6. The employee is experiencing a scenario determined as applicable by the Secretary of HHS.

Employers are required to pay the employee's full wages, capped at \$511 a day and \$5,110 total for leave taken for reasons 1, 2, or 3. Employers are required to pay 2/3 of wages, capped at \$200 a day and \$2,000 total for leave taken for reasons 4, 5, or 6.

II. Additional Leave for Child Care under FMLA

During 2020, small businesses are also required to provide 12 weeks of job-protected leave under the Family and Medical Leave Act (FMLA) if an employee is unable to work because their child's school is closed or their child care provider is unavailable due to the coronavirus public health emergency. The first 10 days of this leave may be unpaid (during which an employee may substitute any paid leave they have already accrued, or the new emergency paid leave provided above). Employers are not permitted to require an employee to take other accrued paid leave before using this new paid leave.

Employers are required to pay employees at a rate of 2/3 their normal wages, capped at \$200 per day and \$10,000 total, for the remaining 10 weeks of protected leave. Additionally, employers are required to maintain any healthcare benefits they ordinarily provide to their employees.

Note:

- Employers cannot substitute any paid leave policies they already offer their employees for the Emergency Paid Coronavirus-related Leave and Child Care Leave.
- If the requirements would cause undue hardship to the small business, the Secretary of Labor is permitted to exempt it from either or both paid leave requirements.
- The Secretary of Labor is permitted to exempt certain healthcare providers and emergency responders from either or both paid leave requirements.

Additionally, the law provides a fully refundable tax credit to small businesses to reimburse them for 100% of expenses they incur due to the two new paid leave mandates. The paid leave provided under this bill would be subject to employee payroll taxes, but not to employer payroll taxes.

On March 14th, Treasury Secretary Steven Mnuchin announced in a [statement](#) that, “[e]mployers will be able to use cash deposited with the IRS to pay sick leave wages. Additionally, for businesses that would not have sufficient taxes to draw from, Treasury will use its regulatory authority to make advances to small businesses to cover such costs.”