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New Start Date: Emergency Paid Sick Leave (EPSL) & Expanded FMLA (EFMLA) Leave Now Required April 1 (Not April 2)

By [Paula Barran](#) & [Charlotte Hodde](#)

Yesterday, the United States Department of Labor announced initial regulatory guidance for the Families First Coronavirus Response Act (FFCRA). Most importantly, this guidance moves up the effective date of the legislation by one day. As a result, employers should be preparing to provide emergency paid sick leave and expanded FMLA leave starting April 1. The [DOL guidance documents](#) preview answers for some (but not all) of the other questions employers are asking after the passage of FFCRA, including how to count employees to determine coverage, and how to calculate normally-scheduled hours and regular rate of pay for employees during the leave period.

We also know now that sick leave given to employees before April 1 will not satisfy or reduce the obligation under this new law and will not qualify for the tax credit. However, employers can start saving money now to cover the new cost on April 1. As explained in last week's [E-Alert](#), the federal government will reimburse employers for payment of EPSL and EFMLA as well as the costs to maintain health insurance coverage for eligible employees during the leave period.

To expedite the reimbursement, the Internal Revenue Service announced last Friday that employers could immediately start retaining payroll taxes they would otherwise deposit with the IRS, and use that money to cover the cost (dollar-for-dollar) of the new leave requirements. This means employers covered by the FFCRA may keep withheld federal income taxes, the employee share of Social Security and Medicare taxes, and the employer share of Social Security and Medicare taxes from all employees to pay for these new requirements.

The [FFCRA poster](#) came out today, which may be emailed or direct mailed to remote employees, or posted on an employee information internal or external website.

The FFCRA implementing regulations will likely be released early next week. As the Department of Labor is formulating these rules, they are asking for employer input until March 29 via a [website](#) created to facilitate the dialogue or on the Twitter chat on March 25,

2020 at 2 p.m. ET (NOW!) using the hashtag #EPWChat. Remember: what a difference a day makes! Hang in there.

For questions regarding this guidance, contact Paula Barran or Charlotte Hodde at 503-228-0500, or at pbarran@barran.com or chodde@barran.com. For additional content, including other Electronic Alerts, articles, and employer resources, visit www.barran.com.

