

DOL provides additional guidance regarding FFCRA tax credit in 2021

Article By:

Margaret R. Kurlinski

Rebeca M. Lopez

At the end of last year, the federal government provided employers covered by the Families First Coronavirus Response Act's (FFCRA's) leave entitlements the *option* to continue providing FFCRA leave and receive a tax credit through March 31, 2021.

As noted in a [previous update](#), the bill does not increase the maximum limits of leave an employee may take as Emergency Paid Sick Leave (EPSL) or Emergency Family and Medical Leave (EFML). In summary, employees are eligible for a total of 80 hours of EPSL and up to 10 weeks of EFML.

The DOL recently published two Frequently Asked Questions (FAQ) documents further clarifying the rights of employees to take FFCRA leave in 2021.

As an initial matter, in [FAQ 104](#), the DOL confirmed that even if an employee was eligible for FFCRA leave in 2020 and did not need to use the leave, he or she is not guaranteed the ability to take such leave in 2021. Rather, such leave is only available if the employer elects to provide the leave and, in such event, the employer may only receive the tax credit for leave provided on or before March 31, 2021.

The DOL also clarified in [FAQ 105](#) that despite the fact that the mandatory leave entitlement expired at the end of 2020, it retains the ability to enforce the FFCRA for leave taken between April 1, 2020, and Dec. 31, 2020. This is a very clear reminder to employers that the DOL expects them to fulfill their requirements under the law even though the mandatory leave entitlement was limited in nature.

Copyright © 2024 Godfrey & Kahn S.C.

National Law Review, Volumess XI, Number 7

Source URL: <https://www.natlawreview.com/article/dol-provides-additional-guidance-regarding-ffcra-tax-credit-2021>