Federal Agencies Announce the Availability of Tax Credits Under the Families First Coronavirus Response Act

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Monday, March 23, 2020

On March 20, 2020 the U.S. Treasury Department, Internal Revenue Service (IRS) and the Department of Labor (DOL) jointly announced that employers covered by the Families First Coronavirus Response Act (the Act) may now begin taking advantage of the special tax credits designed to reimburse them for providing coronavirus-related leave to their employees. These tax credits are available immediately even though the effective date for the Act is still unclear. The effective date will be no later than April 2, 2020.

The Act covers private employers with fewer than 500 employees, although businesses with fewer than 50 employees may be eligible for an exemption from the leave requirements under DOL regulations that are still forthcoming. The Act also covers several public employers regardless of size. Benefits under the Act are not available to employees who have been furloughed, laid off or placed on leave for economic reasons, even if those economic reasons are tied to the coronavirus pandemic. Read Varnum's full summary of the Act, which was signed into law by
President Trump on March 18: President Trump Signs the Families First Coronavirus Response Act

The joint announcement from the Treasury, the IRS and the DOL means that eligible employers may take immediate advantage of the paid leave credits in the form of a dollar-for-dollar offset against certain payroll taxes. If the amount of leave paid pursuant to the Act exceeds the amount of certain payroll taxes owed for all of the employer's employees, the excess is treated as an overpayment and is refundable. Leave amounts, and the corresponding tax credits, are subject to daily caps. Employers may also take a tax credit for the amount of the employer's qualified health plan expenses that may be properly allocated to the employee's coronavirus-related leave under the Act.

Importantly, the agencies' announcement also states that the DOL will be issuing a temporary 30-day, non-enforcement policy, giving employers time to come into compliance with the Act. This 30-day period may start from the date of enactment, but could also start from some later effective date. During this time employers must still act reasonably and in good faith to comply with the Act.

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