Wednesday, March 25, 2020

While promising that the official regulations are still forthcoming, the U.S. Department of Labor (DOL) has just issued additional guidance in the form of questions and answers for employers and employees regarding application of the Families First Coronavirus Response Act (FFCRA). These questions and answers – available here – include confirmation that the FFCRA’s paid leave provisions are effective on April 1, 2020, and apply to leave taken between April 1, 2020 and December 31, 2020.

Of additional note, the guidance indicates the paid sick leave and expanded medical leave requirements are not retroactive and thus, employers may not take advantage of the payroll tax credits allowed under the paid sick leave and paid family leave provisions of the FFCRA for leave provided prior to April 1.

The DOL also attempts to address employer coverage issues and concepts of joint employment and integrated employer, and explains how small employers should apply for an exemption – confirming that such should only document how the small business meets the exemption criteria and should not send any materials to the DOL.
when seeking the exemption.

The DOL’s guidance provides further explanation on calculating full-time and part-time employees’ pay entitlements under the FFCRA and how the two parts of the FFCRA will interact.

While this DOL guidance is a start, certain questions remain unanswered for employers that hopefully will be addressed in the official DOL regulations. We will continue to advise of further guidance and regulations under the FFCRA as new information is released.

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