

Coronavirus Tax Relief

March 20, 2020

Highlights

- ✓ New Law Mandates Paid Leave
- ✓ Tax Credits Provided for Paid Leave
- ✓ Tax Return Due Date Moved to July 15
- ✓ IRS issues additional guidance

Inside

Paid Leave	1
Tax Return Deadline Postponed	2
Additional Guidance.....	2

SPECIAL REPORT

President Signs Bill Providing Testing, Employment Relief; Tax Day Moved to July 15

As coronavirus (COVID-19) continues to spread, rattling financial markets, forcing the closures of businesses and schools, and canceling major public events across the country, the Trump Administration and Congress began taking steps to mitigate the impact on Americans. On March 13, 2020, President Trump declared a national emergency, which frees up \$50 billion in funding for state and local governments to use in fighting the pandemic.

Meanwhile, the House, after working closely with Administration officials, passed the Families First Coronavirus Response Act (H.R. 6201) early in the morning on March 14, 2020. Over the following days, it became clear that changes, described as technical corrections, needed to be made to the bill as passed by the House. An amended version of the bill was passed by the House on March 16, 2020 by unanimous consent, as the majority of House members were on recess for the week, and the bill was sent to the Senate. On March 18, 2020, the Senate passed the bill and sent it to the President's desk. The President signed the bill into law later that day. Meanwhile Congress is far along in considering a third, and significantly larger, stimulus and relief bill.

The bill as passed increases funding for testing and extends paid sick leave to employees all over the country affected by the pandemic.

PAID LEAVE

The new law requires employers with fewer than 500 employees to provide paid sick leave to employees who are forced to stay home due to quarantining or to care for a family member ("qualified paid sick leave") or to care for a child if the school or place of care is closed ("qualified family leave"). The bill compensates employers and the self-employed for this paid leave in the form of a tax credit.



COMMENT. Only a very small portion of the Act provides tax changes. The Act is largely focused on funding for increased coronavirus testing, ensuring free testing for everyone, and continuing student lunch programs when schools are closed.

In the case of sick leave wages paid by an employer to an employee, the employer receives a refundable credit against its share of either the OASDI and

the RRTA portion (as applicable) of the payroll tax. The credit can be claimed on a quarterly basis, equal to 100 percent of the amount of sick leave wages paid under the new law. The amount of the credit is limited to \$200 per day. However, the credit is increased to \$511 per day if the employee is on leave because he or she:

- is subject to a federal, state or local quarantine or isolation order related to COVID-19;
- has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or
- is experiencing symptoms of COVID-19 and seeking a medical diagnosis

The amount of total hours of paid sick leave is limited by the new law and the payroll tax credit is limited to 10 days of wages.

For family leave wages paid by an employer, a separate refundable payroll tax credit applies, with different limitations. The 100 percent credit against the employer's share of the payroll tax is limited to \$200 per day, up to an aggregate of \$10,000.

For self-employed persons, the credit is allowed against regular income taxes. The limit on sick leave wages is determined by multiplying the number of days (subject to limitation) the self-employed person is unable to perform services in the trade or business by the lesser of 67% of the taxpayer's average daily self-employment income, or \$200. The limits are increased to 100% and \$511, respectively, in the case of the three scenarios that also apply to the employer payroll tax credit. The same calculation is made for family leave wages, with days unable to perform services (no more than 50) multiplied by the lesser of 67% of the taxpayer's average daily self-employment income, or \$200.

The new law provides numerous requirements, limitations and definitions relating to the application of the mandate, as well as the credit.



COMMENT. As mentioned above, these provisions are all temporary. The credits are applicable from the date selected by the Secretary of the Treasury (which must be within 15 days of the date of enactment) until December 31, 2020. The tax provisions do not make changes to the Internal Revenue Code.

TAX RETURN DEADLINE POSTPONED

On March 18, 2020, The IRS issued guidance providing that it would waive penalties and interest on tax payments for 90 days, though not postponing the due date for filing a 2019 tax return. However, on March 20, 2020, Treasury Secretary Steven Mnuchin announced via Twitter that the IRS and Treasury have delayed the due date for filing 2019 tax returns to July 15, 2020. At the time of publication, no further guidance had been issued.



COMMENT. The Senate's draft of the Coronavirus Aid, Relief, and Economic Security Act, released on March 19, 2020, also included a delay of the filing deadline to July 15, 2020. The provisions of that bill are not covered in this Tax Briefing.

ADDITIONAL GUIDANCE

The IRS announced in Notice 2020-15 that a health plan that satisfies the requirements of a high deductible health plan (HDHP) under the Internal Revenue Code, and thus allows individuals to deduct contributions to a health savings account, will not cease to be qualified as an HDHP if it allows for COVID-19 testing. This includes testing to be done with deductibles below the minimum deductible for an HDHP, including a \$0 deductible.

TRUMP SIGNS FIRST TWO PHASES OF CORONAVIRUS ECONOMIC RESPONSE PACKAGE; PHASE THREE TO BE UNVEILED ANY DAY

President Trump on the evening of March 18 signed the first two phases of the House's Coronavirus economic response package. Preliminary legislative text of the Senate's "much bolder," phase three measure, is expected to be unveiled any day.

Phase Three Underway

"That legislation was hardly perfect. It imposes new costs and uncertainty on small businesses at precisely the most challenging moment for small businesses in living memory," Senate Majority Leader Mitch McConnell, R-Ky., said from the Senate floor on March 19. "So the Senate is even more determined that our legislation cannot leave small business behind."

The phase three measure the Senate is currently finalizing will consist of four key components, according to

McConnell. The Leader outlined the yet unveiled legislation as follows:

- New federally-guaranteed loans for small businesses,
- Direct financial help/emergency tax relief,
- Targeted lending to industries of national importance, and
- Health resources for those working on the front lines of combating Covid-19.

The small business relief will help. And so will a number of additional tax relief measures, which will be designed to help employers maintain cash flow and keep making payroll,” McConnell said.

Additionally, McConnell highlighted Republicans’ focus of putting “cash in the hands of the American people... from the middle class on down.”

To that end, Treasury Secretary Steven Mnuchin reportedly said on March 19 that the forthcoming economic stimulus package would deliver \$1,000 to every U.S. adult and \$500 for every child. Further a second round of checks

in the same amount would go out to individuals six weeks later, Mnuchin added.

“Americans need cash now and the president wants to get cash now. And I mean now, in the next two weeks,” Mnuchin said this week at the White House.

Meanwhile, Senate Minority Leader Chuck Schumer, D-N.Y., continued discussions with Senate Republicans and the Trump administration on March 19. It remains unclear how quickly Democrats and Republicans will reach consensus on the phase three measure.

“We don’t want bailouts unless they are used for workers, unless the industries keep all their employees, unless they don’t cut salaries of their employees, and unless they are not allowed to buy back their own stocks or raise corporate salaries,” Schumer said in a March 19 tweet.

At press time on March 19, any outlines or legislative text of the phase three measure had not yet been released. However, it is expected on Capitol Hill to be unveiled any day.



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