

April 9, 2020

In an effort to keep you updated during the COVID-19 pandemic, we will be sending you daily updates on the latest developments. Please do not hesitate to reach out to your Sheakley HR team member should you have additional questions or concerns!

Families First Coronavirus Response Act:

There has been some confusion with the “shelter-in-place” or “stay-at-home” order being considered a qualifying event for the Paid Sick time and whether or not “essential” businesses are exempt from having to offer the leave because they have work available for employees.

Essential business are NOT considered exempt from any provision of the FFCRA. The only exemption that is in place currently is for employees with 50 or less employees. These organizations would be exempt from offering leave to employees who need to stay home to care for their child due to daycare/school closings IF offering the leave would cause a financial hardship for the organization.

The truth is like many issues surrounding COVID-19, there is still a lot of “gray area” concerning this provision of the FFCRA. Our advice is always to err on the side of caution and offer the two weeks of Paid Sick leave to the employee if an employee is unable to “telework” or work from home.

With the above being said, employees who feel uncomfortable working during this time would NOT qualify for the Paid Sick leave. In order for an employee to qualify for the Paid Sick leave they have to be prohibited from working completely of no fault of their own.

If an employee comes to you with concerns about their health and safety while performing work for your organization, that should not be taken lightly. First, the organization will want to consider whether the employee can take unpaid leave or telework. You can also allow them to use any available paid time off they may have. Consider the employees complaint and how it could affect the organization and their employees. Essential business are still at risk for being shut down by the state if they cannot keep employees safe.

Coronavirus Aid, Relief, and Economic Security Act (CARES)- SBA loans and Paycheck Protection Program:

Attached to this email you will find some information on the SBA’s long-standing Economic Injury Disaster Loan Program (EIDL). This program was created to assist businesses, renters, and homeowners affected by declared disasters. If you have additional questions or concerns regarding the EIDL program, please contact your CPA.

We have been also receiving some concerns around the FFCRA tax credits affecting the PPP loans through the CARES Act. We asked the below question:

Will the tax credits under the FFCRA (wages paid for Paid Sick or Expanded FMLA) affect the PPP loan in any way or forgiveness under the PPP?

The FFCRA and CARES Act provide separate but related tax credits for employers impacted by

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COVID-19:

FFCRA provides a tax credit to enable employers that are required to provide sick leave payments and expanded family leave payments to employees for reasons related to COVID-19 to cover the costs of those payments from April 1, 2020 to December 31, 2020.

CARES Act provides a tax credit that is designed to encourage employers that are financially impacted by COVID-19 to keep employees on their payroll. The Act provides a tax credit equal to 50% of “qualified wages” paid by an eligible employer after March 12, 2020 until December 31, 2020. The maximum amount of qualified wages that can be taken into account with respect to an individual employee is \$10,000, so the maximum tax credit that can be claimed by an employer is \$5,000 per employee.

Both are applied against the employer portion of the Social Security tax that normally would have to be paid by the employer on W-2 wages paid to all employees.

An eligible employer cannot receive the Employee Retention Tax Credit under the CARES Act if the eligible employer receives a Small Business Interruption Loan under the Paycheck Protection Program. However, an employer can receive the tax credits under both the FFCRA and the CARES Act, just not for the same wages. Additionally, an employer can receive both FFCRA tax credits and a Small Business Interruption Loan under the PPP, though qualified leave wages are not eligible as payroll costs for the purposes of loan forgiveness.

Sheakley HR COVID-19 Resource Page:

In addition to our daily email updates, we are also working diligently to keep our Sheakley HR COVID-19 Resource Page up-to-date. You can visit this page at <https://ww2.sheakley.com/coronavirus-update/>.