



# Families First Coronavirus Response Act

March 24, 2020

Webinar starts at 8:30 a.m. CT

Presented by:

# Administration



Reminder: We are not offering CPE or HR credit for today's discussion.



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# Today's topics

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- Update on federal and state tax filing and payment deadlines
- Families First Coronavirus Response Act
  - Emergency FMLA Expansion Act
  - Emergency Paid Sick Leave Act
  - Tax Credits for Paid Sick and FMLA Act



# Presenter

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## **SHAWN SULLIVAN**

Executive Vice President, Tax Services

- Extensive public and private accounting experience
- Experience in M&A, international tax, and business structuring
- Member of AICPA and KSCPA

# Presenter

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## **CARRIE COX**

Senior Consultant, Human Resources Services

- Experience in a variety of human resource functions, including a thorough knowledge of labor laws, compensation structures, employee classification, benefits administration, performance management, and human resource best practices
- Serves clients in a number of industries, including manufacturing, construction, banking and not-for-profits

# Presenter

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## **CINDY MCSWAIN**

Senior Vice President, Outsourcing Services

- Leads AGH's outsourcing services department
- 10+ years in outsourcing accounting/payroll
- 10+ years of audit experience
- 5+ years of tax experience
  
- Member of AICPA, KSCPA and numerous civic organizations



# Tax update

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- Federal filing & payment deadlines extended to July 15, 2020
  - Any amount can be deferred
  - If you file your tax return or request an extension of time to file by July 15, you will automatically avoid interest and penalties on the taxes paid by July 15.
  - IRS urges taxpayers who are owed a refund to file as quickly as possible.
- Kansas filing & payment deadlines extended to July 15, 2020
- Other changes vary by individual state



# Families First Coronavirus Response Act

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- Signed by President 3/18/20, effective within 15 days

## **Key provisions:**

- Emergency Family and Medical Leave Expansion Act
- Emergency Paid Sick Leave Act
- Tax Credits for Paid Sick and Paid Family and Medical Leave
- Health Provisions
- Emergency Unemployment Insurance Stabilization and Access Act



# Emergency Family and Medical Leave Expansion Act

- Amends FMLA through 12/31/20
- **Employee eligibility:** employed at least 30 calendar days
- **Employer eligibility:** less than 500 employees (exemption may be granted for employers less than 50 employees)
- Employee unable to work due to a need for leave to care for a son or daughter under 18 years of age if the school or place of care has been closed or the child care provider is unavailable due to a public health emergency (declared by federal, state or local authority with respect to COVID-19)
- Certain health care providers and emergency responders may be excluded



# Emergency Family and Medical Leave Expansion Act

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- Provides 12 weeks of job-protected leave
- First 10 days may be unpaid; employee **may** substitute accrued vacation, personal, medical or sick leave for unpaid leave
- Employer provides paid leave for each day of leave after the first 10 days
- Employee is paid at 2/3 of their regular rate of pay for number of hours they would normally work, up to \$200 per day and \$10,000 in aggregate
- Job restoration may not be required for employers who employ 25 employees
- An employer that is part of a multiemployer collective bargaining agreement may fulfill its obligations for payment of leave by making contributions to a multiemployer fund



# Emergency Paid Sick Leave Act

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## Covered Employers

- Private employers with fewer than 500 employees
- Public agency or other entity that is not private or individual with one or more employees
- Engaged in commerce or in any industry or activity affecting commerce
- (Similar to Fair Labor Standards Act)

# Emergency Paid Sick Leave Act

An employer shall provide paid sick time when the employee is unable to work (or telework) due to a need for leave because the employee is:

1. Subject to a federal, state or local quarantine or isolation order related to COVID-19.
  2. Advised by a health care provider to self-quarantine due to concerns related to COVID-19.
  3. Experiencing symptoms of COVID-19 and seeking a medical diagnosis.
  4. Caring for an individual who is subject to an order of isolation as described above or has been advised by a health care provider as described above.
  5. Caring for a son/daughter if the school/place of care for him/her is closed or the childcare provider is unavailable due to COVID-19. *(Employers under 50 may be exempt from this provision only.)*
  6. Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.
- *Certain health care providers and emergency responders may be excluded.*

# Emergency Paid Sick Leave Act

## Paid sick time calculation

- Up to \$511 per day (\$5,110 in aggregate) for employee's own quarantine or symptoms
- Up to \$200 per day (\$2,000 in aggregate) for employee caring for another individual (calculated at 2/3 of regular compensation) or #6
- Required compensation shall not be less than the greater of the following:
  - Employee's regular rate of pay
  - Minimum wage rate set by FLSA
  - Minimum wage in applicable state, locality



# Emergency Paid Sick Leave Act

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- Full-time employees will be paid for up to 80 hours
  - Part-time equivalent over two weeks
  - Variable hour employees
- All employees are eligible immediately
- Paid sick time will not carry over
- Employers cannot require the employee to find a replacement to cover hours not worked
- Employees may first use emergency paid sick leave and must not be required to use other accrued leave first



# Emergency Paid Sick Leave Act

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- Notice/Posting requirements
- Employers may not discharge, discipline or discriminate against anyone using this leave
- Employers are subject to penalties for noncompliance
- An employer that is part of a multiemployer collective bargaining agreement may fulfill its obligations for payment of leave by making contributions to a multiemployer fund
- **Expires 12/31/20**

# Tax Credits – Paid Sick, Paid Family & Medical Leave

- Quarterly payroll tax credits for 100% of required paid sick leave and paid family leave
- Maximum \$200 per day (\$511 in case of sick time paid as described in paragraph (1), (2) or (3) of section 5102(a))
- Maximum \$200 per day for which an employee is paid qualified family leave wages (\$10,000 in aggregate)
- Aggregate number of days is 10 for each calendar quarter or all preceding quarters
- If amount of credit exceeds the tax imposed, the excess will be treated as an overpayment and refunded





# Other provisions

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- Health Provisions
- Emergency Unemployment Insurance Stabilization and Access Act



# What's unclear?

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- When is it effective?
- What if there are multiple cases of leave needed?
- How does the 12 weeks of expanded leave count with other types of FMLA?



# What to do

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- Determine tracking for payroll tax credit requirements
- Posting/Notice requirements
- Policy updates



# Taxability of covered payments to employees

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- Subject to the following payroll taxes:
  - Federal withholding
  - State withholding
  - FICA (**EE portion only**)
  - Medicare (ER and EE)
  - Unemployment

# Reimbursement of covered payments

IRS IR-2020-57 (Friday, March 20, 2020)

- Credit NOT available for governmental employers
- Guidance to be issued this week
- Dollar for dollar credit (wage payments + 1.45% ER Medicare tax on such payments + allocable portion of health plan expense)
- Reduce federal payroll tax deposit by amount of payments
  - If payments > federal payroll tax deposit → request for payment
    - New form to be released
    - IRS expects to process these requests in two weeks or less

# Reimbursement of covered payments

IRS IR-2020-57 (Friday, March 20, 2020)

## Example 1

- ER paid \$5,000 in sick leave and has \$8,000 in payroll taxes to deposit
- ER required to only deposit the net of \$3,000

## Example 2

- ER paid \$10,000 in sick leave and has \$8,000 in payroll taxes to deposit
- ER makes no deposit for that payroll
- ER files request for an accelerated credit for the remaining \$2,000



# Taxability of credit to employer

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- No double benefit
- Credits claimed are included in gross income



# Small Business exemption

IRS IR-2020-57 (Friday, March 20, 2020)

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- Fewer than 50 employees
- Eligible for exemption from leave requirements relating to school closings or child care unavailability
  - Where requirements would jeopardize ability of the business to continue
  - Available on basis of simple and clear criteria
  - US Department of Labor will provide emergency guidance and rulemaking to clearly articulate this standard





# Non-enforcement period

IRS IR-2020-57 (Friday, March 20, 2020)

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- US DOL to issue a temporary non-enforcement policy
- During such time, no enforcement action so long as employer acted reasonably and in good faith to comply
- US DOL will instead focus on compliance assistance during the 30-day period



# Recommendations

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## **Timekeeping**

- Set up separate codes to record time
  - Emergency sick leave
  - Emergency FMLA

## **Payroll earnings codes**

- Set up separate earnings codes
  - Emergency sick leave
  - Emergency FMLA

## **Termination codes**

- Set up separate termination codes
  - Terminations related to COVID-19



Q & A session

# COVID19

[Home](#) / [Insights](#) / [COVID-19 resources](#)

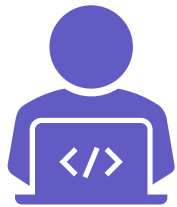
## COVID-19 resources for employers

Organizations are facing a myriad of decisions and challenges with the rapidly changing landscape on COVID-19.

[AGHLC.com/COVID19](https://AGHLC.com/COVID19)

# Thank you for attending

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A recording of today's webinar will be emailed for your reference or to share with others.



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# Questions?


## CARRIE COX

Senior Consultant, HR Services

 [Carrie.Cox@aghlc.com](mailto:Carrie.Cox@aghlc.com)

 316.291.4022


 [linkedin.com/in/CarrieCoxHR](https://www.linkedin.com/in/CarrieCoxHR)


 [twitter.com/CarrieCoxHR](https://twitter.com/CarrieCoxHR)


## CINDY MCSWAIN

Senior Vice President, Outsourcing Services

 [Cindy.McSwain@aghlc.com](mailto:Cindy.McSwain@aghlc.com)

 316.291.4101

 [linkedin.com/in/cindymcswain](https://www.linkedin.com/in/cindymcswain)


 [twitter.com/AGHCindy](https://twitter.com/AGHCindy)

## SHAWN SULLIVAN

Executive Vice President, Tax Services

 [Shawn.Sullivan@aghlc.com](mailto:Shawn.Sullivan@aghlc.com)

 316.291.4110

 [linkedin.com/in/dshawnsullivan](https://www.linkedin.com/in/dshawnsullivan)

Questions **not** related to today's content: [mike.ditch@aghlc.com](mailto:mike.ditch@aghlc.com)