



Introducing ARPA (American Rescue Plan Act)

Part of the newly passed American Rescue Plan Act (ARPA) is an extension of the current tax credit for Emergency Paid Sick Leave (EPSL) and Emergency Family and Medical Leave (EFMLA) currently being administered under the Families First Coronavirus Response Act (FFCRA). The FFCRA required many employers to provide EPSL and EFMLA in 2020, but became optional when it was extended to cover January 1 through March 31, 2021.

The new extension under ARPA takes effect April 1, 2021 and will continue through September 30, 2021. Like the current version of the FFCRA, it remains optional. Tax credits are available to employers with fewer than 500 employees and up to certain caps. To receive the tax credit, employers are required to follow the original provisions of the FFCRA. For example, they can't deny EPSL or EFMLA to an employee if they're otherwise eligible, can't terminate them for taking EPSL or EFMLA, and have to continue their health insurance during these leaves.

Emergency Paid Sick Leave (EPSL) Changes

Here are the key changes to EPSL, in effect from April 1 through September 30, 2021:

- Employees can take EPSL to get the COVID vaccine and to recover from any related side effects.
- Employees can take EPSL when seeking or waiting for a COVID-19 diagnosis or test result if they've been exposed to COVID-19 or if the employer has asked them to get a diagnosis or test.
- Employees will be eligible for a new bank of time beginning April 1. Full-time employees are entitled to 80 hours while part-time employees are entitled to a prorated amount.

Emergency Family and Medical Leave (EFMLA) Changes

Here are the key changes to EFMLA, in effect from April 1 through September 30, 2021:

- EFMLA can now be used for any EPSL reason, in addition to the original childcare reasons. This includes the two new EPSL reasons noted above.
- The 10-day unpaid waiting period has been eliminated.
- The cap on the reimbursable tax credit for EFMLA has been increased to \$12,000 (from \$10,000). This applies to all EFMLA taken by an employee, beginning April 1, 2020. This change accounts for the additional 10 days of paid time off—the daily cap of \$200 remains the same.

Reasons for Using EPSL and EFMLA

Starting on April 1, employees can take EPSL or EFMLA for the same set of reasons, which is a useful simplification. The following are acceptable reasons for taking these leaves:

1. When quarantined or isolated subject to federal, state, or local quarantine or isolation order
2. When advised by a health care provider to self-quarantine because of COVID-19
3. When the employee is:
 - Experiencing symptoms of COVID-19 and seeking a medical diagnosis
 - Seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19 because they have been exposed or because their employer has requested the test or diagnosis
 - Obtaining a COVID-19 vaccination or recovering from any injury, disability, illness, or condition related to the vaccination
4. When caring for another person who is isolating or quarantining on government or doctor's orders
5. When caring for a child whose school or place of care is closed due to COVID-19

Tax Credit Review

The tax credits available between April 1 and September 30 are the same as under the original FFCRA, except for the increased aggregate cap for EFMLA. Tax credits are available as described below, regardless of how much EPSL or EFMLA an employee used prior to April 1.

- The credit available for EPSL when used for reasons 1, 2, or 3 (self-care) is up to 100% of an employee's regular pay, with a limit of \$511 per day.
- The credit available for EPSL when used for reasons 4 or 5 (care for another) is up to 2/3 of an employee's regular rate of pay, with a limit of \$200 per day.
- The credit available for EFMLA for any reason is up to 2/3 of an employee's regular pay, with a limit of \$200 per day and a cap of \$12,000 per employee.

Employers can also claim a credit for their share of Medicare tax on the employee's wages and the cost of maintaining the employee's health insurance (qualified health plan expenses) during their absence.

Documentation

It is noteworthy that written requests indicating the reason for leave are required as supporting documentation in order to receive the tax credit. Additionally, leave pay must be indicated by using pay code EPSL and once the quarterly taxes have been filed, it is not possible to 'fix' forgotten or miscoded EPSL leave. Please work closely with our HR Team week by week to ensure your company's compliance and accurate tax credit reporting. You can reach us at 800-891-9911 or by emailing hr@bcnservices.com.