THE JMCPA JOURNAL

Quarterly Updates, Advice, & Reminders From Your Accountant

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COVID-19 RELIEF FOR EMPLOYERS

This edition of the JMCPA Monthly Messenger was prepared especially for all of our small business payroll clients. We understand that this a trying time for many of you and luckily, so does our nation. Thanks to the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security (CARES) Act, relief for employers is available. We also understand that there is an abundance of information (and misinformation) out there regarding these programs and in this newsletter, we'll help break it down for you.

PAYCHECK PROTECTION PROGRAM (PPP) LOAN

By now, we're sure you've got the basics of this program down and many have already been approved so we'll keep this short and sweet by simply providing links for the application form, a fact sheet with more details, and a handy max loan calculator.

Application | Fact Sheet | Calculator

EMPLOYEE RETENTION CREDIT

Here's what you need to know:

- This is a refundable tax credit equal to 50% of qualified wages (including health plan expenses) paid to employees between March 13, 2020 and December 31, 2020, up to $10,000 per employee.
- The credit is eligible for employers with operations that have been partially or fully suspended due to governmental orders due to COVID-19 or businesses that have a significant decline in gross receipts compared to 2019.
- A significant decline in gross receipts begins on the first day of the first calendar quarter of 2020 for which an employer's gross receipts are less than 50% of its gross receipts for the same calendar quarter in 2019.
- The significant decline in gross receipts ends on the first day of the first calendar quarter following the calendar quarter in which gross receipts are more than 80% of its gross receipts for the same calendar quarter in 2019. For example:

	2019	2020	% Revenues in 2020 Compared to 2019	Eligibility for EE Retention Credit
Q1	$10,000.00	$9,000.00	90.00%	Not eligible.
Q2	$10,000.00	$4,300.00	43.00%	Eligible for 50% of qualified wages paid in Q2.
Q3	$10,000.00	$7,500.00	75.00%	Eligible for 50% of qualified wages paid in Q3.
Q4	$10,000.00	$8,600.00	86.00%	Eligible for 50% of qualified wages paid in Q4.
Q1	$10,000.00	$9,000.00	90.00%	Not eligible.
Q2	$10,000.00	$4,300.00	43.00%	Eligible for 50% of qualified wages paid in Q2.
Q3	$10,000.00	$8,600.00	86.00%	Eligible for 50% of qualified wages paid in Q3.
Q4	$10,000.00	$6,200.00	62.00%	Not eligible (since last quarter exceeded 80%).

- For employers that averaged 100 or fewer full-time employees during 2019, qualified wages are those wages, including health care costs, (up to $10,000 per employee) paid to any employee during the period operations were suspended or the period of the decline in gross receipts, regardless of whether or not its employees are providing services.

EMPLOYEE RETENTION CREDIT (CONT.)

- Employers receiving the PPP loan are not eligible for the Employee Retention Credit.
- Wages for this credit do not include wages for which the employer received a tax credit for paid sick and family leave under the Families First Coronavirus Response Act.
- In anticipation of claiming the credit, employers can retain a corresponding amount of the employment taxes that otherwise would have been deposited, including federal income tax withholding, the employees' share of Social Security and Medicare taxes, and the employer's share of Social Security and Medicare taxes for all employees, up to the amount of the credit, without penalty, taking into account any reduction for deposits in anticipation of the paid sick and family leave credit provided in the Families First Coronavirus Response Act.
- Eligible employers can also request an advance of the Employee Retention Credit by submitting Form 7200.
- Please let Maren know if you are interested in taking advantage of this credit.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT - CREDITS FOR REQUIRED PAID LEAVE

What is it?
The Families First Coronavirus Response Act (the "FFCRA"), signed by President Trump on March 18, 2020, provides small and midsize employers refundable tax credits that reimburse them, dollar-for-dollar, for the cost of providing paid sick and family leave wages to their employees for leave related to COVID-19. Here's what you need to know:

- The FFCRA requires employers to provide paid leave through two separate provisions:
  - (i) the Emergency Paid Sick Leave Act (EPSLA), which entitles workers to up to 80 hours of paid sick time when they are unable to work for certain reasons related to COVID-19, and
  - (ii) the Emergency Family and Medical Leave Expansion Act (Expanded FMLA), which entitles workers to certain paid family and medical leave.

Eligible Employers are entitled to refundable tax credits for qualified sick leave wages and qualified family leave wages (collectively “qualified leave wages”). These tax credits are increased by the qualified health plan expenses allocable to, and the Eligible Employer’s share of Medicare tax on, the qualified leave wages. Eligible Employers are businesses and tax-exempt organizations with fewer than 500 employees that are required to provide paid sick leave under the EPSLA and to provide paid family leave under the Expanded FMLA.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT - CREDITS FOR REQUIRED PAID LEAVE (CONT.)

Which employees must be paid?
The EPSLA requires Eligible Employers to provide employees with paid sick leave if the employee is unable to work (including telework) due to any of the following:

1. the employee is under a Federal, State, or local quarantine or isolation order related to COVID-19;
2. the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3. the employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
4. the employee is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
5. the employee is caring for the child of such employee if the school or place of care of the child has been closed, or the child care provider of such child is unavailable, due to COVID–19 precautions;
6. the employee is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.

How much paid leave are they entitled to?
An employee who is unable to work for reasons due to a COVID-19 circumstance described in (1), (2) or (3) above is entitled to paid sick leave for up to two weeks (up to 80 hours) at the employee's regular rate of pay, or, if higher, the Federal minimum wage or any applicable State or local minimum wage, up to $511 per day and $5,110 in the aggregate.

An employee who is unable to work due to a COVID-19 circumstance described in (4), (5) or (6) above is entitled to paid sick leave for up to two weeks (up to 80 hours) at 2/3 the employee's regular rate of pay or, if higher, the Federal minimum wage or any applicable State or local minimum wage, up to $200 per day and $2,000 in the aggregate.

How does the credit work?
The refundable tax credits apply to qualified sick leave wages and qualified family leave wages paid for certain periods when an employee is unable to work, as described above, during the period beginning April 1, 2020, and ending December 31, 2020. The same period is used to determine credits for qualified sick leave equivalent amounts and qualified family leave equivalent amounts for certain self-employed individuals.

The Eligible Employer is entitled to a fully refundable tax credit equal to the required paid sick leave. This tax credit also includes the Eligible Employer's share of Medicare tax imposed on those wages and its allocable cost of maintaining health insurance coverage for the employee during the sick leave period (qualified health plan expenses). The Eligible Employer is not subject to the employer portion of social security tax imposed on those wages.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT - CREDITS FOR REQUIRED PAID LEAVE (CONT.)

The credit is allowed against the taxes imposed on employers by social security tax. If the amount of the credit exceeds the employer portion of these federal employment taxes, then the excess is treated as an overpayment and refunded to the employer. The qualified sick leave wages are not subject to social security tax and employers are entitled to additional credit for the medicare tax imposed on such wages.

Eligible Employers that pay qualified leave wages will be able to retain an amount of all federal employment taxes equal to the amount of the qualified leave wages paid, plus the allocable qualified health plan expenses and the amount of the employer's share of Medicare tax imposed on those wages, rather than depositing them with the IRS. The federal employment taxes that are available for retention by Eligible Employers include federal income taxes withheld from employees, the employees' share of social security and Medicare taxes, and the employer's share of social security and Medicare taxes with respect to all employees.

If the federal employment taxes yet to be deposited are not sufficient to cover the Eligible Employer's cost of qualified leave wages, plus the allocable qualified health plan expenses and the amount of the employer's share of Medicare tax imposed on those wages, the employer will be able to file a request for an advance payment from the IRS. The IRS expects to begin processing these requests in April 2020.

Eligible Employers claiming the credits for qualified leave wages, plus allocable qualified health plan expenses and the Eligible Employer's share of Medicare taxes, must retain records and documentation related to and supporting each employee's leave to substantiate the claim for the credits, as well retaining the Forms 941, Employer's Quarterly Federal Tax Return, and 7200, Advance of Employer Credits Due To COVID-19, and any other applicable filings made to the IRS requesting the credit.

In which scenarios are employers exempt from paying these leave wages?

- Employers that are closed after April 1, 2020, even for a short period of time, are not required to pay leave wages. Employers who close while employees are on paid sick leave or expanded paid family and medical leave must pay for the leave used before closing. This is true whether the employer closes their worksite for lack of business or because it was required to close pursuant to a Federal, State, or local directive.

- Employers that furlough employees, because they do not have enough work or business for employees, are not required to pay leave wages. However, employees may be eligible for unemployment insurance benefits, and employers may encourage them to apply.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT - CREDITS FOR REQUIRED PAID LEAVE (CONT.)

- Employers that reduce employees' work hours because they do not have enough work for employees to perform are not required to pay leave wages for the hours that the employees are no longer scheduled to work. However, employees may take paid leave if a COVID-19 qualifying reason prevents them from working their full schedule.

- The FFCRA permits the Department of Labor to provide rules that a business with fewer than 50 employees may use to claim an exemption from providing paid sick leave and expanded family and medical leave for the purpose of caring for a child whose school or place of care is closed or whose child care provider is unavailable due to COVID-19-related reasons if providing these qualified leave wages would jeopardize the viability of their businesses as a going concern. Any business that claims the exemption is not entitled to tax credits for any qualified leave wages that they are exempt from providing.

- The FFCRA also permits employers whose employees are health care providers or emergency responders not to provide qualified sick leave or qualified family leave wages to those employees.

Where can I find more information about the FFCRA and credits for paid leave?
For more information, please check this Q&A page, as it is very comprehensive and should be able to answer any additional questions you may have about the FFCRA and the employer credit: https://www.dol.gov/agencies/whd/pandemic/ffcra-questions

Please contact Maren if you believe you are required to pay any employees for sick leave or expanded family and medical leave.