



Employers May Claim Tax Credit For Providing COVID-19 Vaccination Paid Leave, With Qualifications

Insights

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In an attempt to boost the nation's COVID-19 vaccination rate, President Joe Biden announced yesterday that small- and medium-sized employers offering vaccine-related paid leave will be eligible for a significant tax credit. The tax credit will fully offset the cost of providing paid time off to employees not only to get inoculated but also for any time needed to recover from vaccination side effects. As explained below, however, obtaining this tax credit is not entirely new, nor is it free of related requirements.

The Specifics

Specifically, the tax credit is being funded as part of the \$2 trillion stimulus bill – the American Rescue Plan – signed into law last month. Businesses and nonprofits with fewer than 500 employees will be eligible for the tax credits for any paid vaccination leave offered between April 1 and September 30, 2021. This includes up to 80 hours of paid sick leave in an amount equal to the employee's regular wage, capped at \$511 per day for a total of 10 work days, for a total of up to \$5,110. Specifically, the leave can be provided for any time spent obtaining or recovering from a COVID-19 vaccine. The White House says it applies to nearly half of all private sector employees, and will allow employers to provide paid leave for employees to get a COVID-19 vaccination and for any time their employees may need to recover from that vaccination at no cost.

Critically, this is essentially among the tax credits that employers can receive for voluntarily continuing to provide emergency paid sick leave (EPSL) and emergency family medical leave (EFMLA) under the federal Families First Coronavirus Response Act (FFCRA). As we noted in describing these new credits last month, it appears that if an employer chooses to voluntarily provide these new EPSL benefits *and claim the tax credit*, it should generally comply with all such requirements of the FFCRA leave provisions. In other words, if you want to claim the associated tax credit, you do not appear to be able to pick and choose to provide paid leave for only certain qualifying reasons. If you provide paid leave for employees getting inoculated and recovery from any side effects, you must also provide the leave when an employee is awaiting and seeking results of a diagnostic test or diagnosis for COVID-19, in addition to the reasons that were already eligible for EPSL. Otherwise, the associated tax credit may ultimately be denied.

"Providing paid time off for vaccinations is an investment in the safety, productivity and health of an employer's own workforce and their community" the White House said in an announcement "No

employer's own workers and their community," the White House said in an announcement. "No working person in this country should lose a single dollar from their paycheck to take time to get the shot or recover from it. The paid leave tax credit that President Biden signed into the law in the American Rescue Plan ensures that no small businesses or non-profits will lose a single dollar by providing such paid leave to workers receiving a vaccination."

What Should You Do?

The Internal Revenue Service (IRS) released and posted a fact sheet that provides more detail on how to claim the paid sick leave credit on your quarterly tax filings. You should coordinate with your employment counsel and your tax preparer before proceeding.

If you are providing vaccine incentives that include paying employees for time spent getting vaccinated or dealing with side effects, you should also review that policy to ensure that it is current and not inconsistent with applicable FFCRA provisions.

We will keep a close eye on further developments and provide updates as warranted. You should ensure you are subscribed to Fisher Phillips' Insight system to gather the most up-to-date information. If you have questions about any aspect of this new law and its impact on your workplace, contact your Fisher Phillips attorney or visit our Vaccine Resource Center for Employers.

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