

We are grateful to Robert Sparer, Managing Partner, *Clifton Budd & DeMaria, LLP* for the following important update:

While COVID-19 leave benefits under the Families First Coronavirus Response Act (the “FFCRA”) were set to expire on December 31, 2020, the Consolidated Appropriations Act, 2021 (the “CAA”) extended employer tax credits for COVID-19 paid sick leave and expanded family and medical leave through March 31, 2021. Employers must continue to obtain and keep required records to substantiate any tax credits taken for such leave payments.

Although the FFCRA tax credits have been extended, the CAA did not extend employees’ entitlement to leave under the FFCRA past the original expiration date of December 31, 2020 and the CAA did not increase employees’ entitlements to leave under the FFCRA. As such, employers are no longer legally required to provide leave under the FFCRA, but may choose to voluntarily offer FFCRA leave benefits to employees who have not already exhausted their FFCRA leave entitlements.

Employers may take tax credits on leave entitlements under the FFCRA only once per employee during the period of April 1, 2020 (the effective date of the FFCRA) through March 31, 2021 (the end of the extended tax credit period). Employers may not take tax credits on additional leave provided to employees who have already used all their leave entitlements under the FFCRA.

While New York State employers are no longer required to provide leave under the FFCRA, employers should consider whether employees who need to take time off from work for COVID-19 related reasons are entitled to leave under New York State Paid Family Leave (including the separate COVID-19-related benefit), the Family and Medical Leave Act, the Americans with Disabilities Act, or under New York State’s or New York City’s Human Rights Laws.

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