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IRS Provides Initial Explanation Regarding Employer Tax Credits Under the Coronavirus Relief Act

Many clients have been asking us about how employer tax credits will work to pay for paid sick leave under the Families First Coronavirus Response Act ("Act"). On March 20, the IRS published a guidance document to explain this. Briefly, as stated in the Guidance, employers will receive 100% reimbursement for paid sick and child care leave provided under the Act, through a "dollar-for-dollar" tax offset against the employer's payroll taxes. Note, however, that reimbursement may be claimed only up to the Act's caps on paid sick leave, which range from \$200 to \$511 per day and \$2,000 to \$5,110 in the aggregate per each qualifying employee.

Where a refund is owed, the IRS states it will send such refund "as quickly as possible." Under additional guidance the IRS expects to release this week, employers would be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and child care leave that they paid, rather than deposit them with the IRS. If there are not sufficient payroll taxes to cover the cost of sick and child care leave paid, the employer will be able to request a prompt repayment from the IRS.

For example, if an employer covered by the Act would otherwise be required to pay \$8,000 in payroll taxes, and then has paid \$5,000 in COVID-19-related sick leave, that employer would be required to pay \$3,000 on the next regular tax deposit date. To provide another example, if

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an employer otherwise required to pay \$8,000 in taxes paid \$10,000 in COVID-19-related sick leave, that employer would use the entire \$8,000 in taxes toward the paid leave, and then request an accelerated credit of \$2,000 from the IRS.

You can find the IRS's March 20 publication here. We will post the referenced, upcoming IRS guidance on this COVID-19 resource page as soon as that guidance becomes available.

If you have any questions regarding paid sick leave or other Labor and Employment issues, please do not hesitate to contact Sonya Rosenberg or your Neal Gerber Eisenberg attorney.

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