

**MEMORANDUM**

DATE: December 28, 2020

RE: How the New COVID-19 Relief Package Impacts the FFCRA

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Back in March, we wrote extensively about the Families First Coronavirus Response Act (FFCRA) and its now well-known provisions regarding paid sick leave and paid family leave. As we told you then, those leave programs were set to expire on December 31, 2020. Nothing has changed in that respect—the spending and stimulus bill signed into law on December 27 does not include an extension of those mandatory paid leave provisions. However, the law does extend the refundable payroll tax credit until March 31, 2021, so employers may elect to voluntarily offer paid sick and family leave under the same terms as the FFCRA and receive the tax credit for the next three months.

Going forward, employers should consider the following:

- The tax credit extension does not increase the total amount of leave or the tax credit available for any single employee. FFCRA leave taken before December 31, 2020 will still count against the total amount of leave available to the employee, and to any tax credits that can be claimed for leave taken through March 31, 2021.
- Employers who end all FFCRA leave entitlements at the end of this year should consider communicating that decision in advance to all employees, including those currently on leave.
- Employers who choose to end FFCRA leave entitlements must remember that some employees might still be entitled to leave (paid or unpaid) under other laws (e.g., the OFLA and FMLA, the Oregon Sick Leave Law and the ADA). Recall that in September, BOLI issued permanent rule updates that allow employees eligible for OFLA to take OFLA protected time off to care for children whose school or childcare provider has been closed for a public health emergency.

If you need assistance applying these new developments to your , please contact our Labor and Employment attorneys, Amanda Walkup, Andy Lewis and Mario Conte.

*This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.*