

# Sweeney Mason

LLP

## *Coronavirus (COVID-19) Update:*

### *DOL and IRS Issue Additional Guidance on the FFCRA*

On Friday, April 3, 2020, the U.S. Department of Labor (DOL) issued expanded FAQs that helped clarify when employees are eligible for the paid sick leave or expanded family leave available under the Families First Coronavirus Relief Act (FFCRA). The updated guidance is available [here](#), see Question 60-79.

This past week, the Internal Revenue Service (IRS) also issued helpful guidance regarding the tax credits available to employers as reimbursement for the for the cost of providing paid sick and family leave wages to their employees for leave related to COVID-19. The new FAQs are available [here](#).

Of particular note, the IRS clarified what documentation is required for employers to provide in order to claim the tax credits available under the FFCRA.

An employee requesting leave under the FFCRA must provide the employer with a written request for such leave that contains the following:

- The employee's name;
- The date or dates for which leave is requested;
- A statement of the COVID-19 related reason the employee is requesting leave and written support for such reason; and
- A statement that the employee is unable to work, including by means of telework, for such reason.

In the case of a leave request based on a quarantine order or self-quarantine advice, the statement from the employee should include the name of the governmental entity ordering quarantine or the name of the health care professional advising self-quarantine, and, if the person subject to quarantine or advised to self-quarantine is not the employee, that person's name and relation to the employee.

In the case of a leave request based on a school closing or child care provider unavailability, the statement from the employee should include the name and age of the child (or children) to be cared for, the name of the school that has closed or place of care that is unavailable, and a representation that no other person will be providing care for the child during the period for which the employee is receiving family medical leave and, with respect to the employee's inability to work or telework because of a need to provide care for a child older than fourteen during daylight hours, a statement that special circumstances exist requiring the employee to provide care.

In addition to retaining the employee's written request for leave, an employer should create and maintain records that include the following:

- Documentation to show how the employer determined the amount of qualified sick and family leave wages paid to employees that are eligible for the credit, including records of work, telework and qualified sick leave and qualified family leave.
- Documentation to show how the employer determined the amount of qualified health plan expenses that the employer allocated to wages. See Question 31 (“Determining the Amount of Allocable Qualified Health Plan Expenses”) for methods to compute this allocation.
- Copies of any completed Forms 7200, Advance of Employer Credits Due To COVID-19, that the employer submitted to the IRS.
- Copies of the completed Forms 941, Employer’s Quarterly Federal Tax Return, that the employer submitted to the IRS (or, for employers that use third party payers to meet their employment tax obligations, records of information provided to the third party payer regarding the employer’s entitlement to the credit claimed on Form 941).

Sweeney Mason LLP continues to monitor the rapidly evolving situation pertaining to the COVID-19 virus and resulting legal issues. We are finding that the laws and orders released by the Federal, State, County and Local governments are, in some cases, ambiguous, vague and/or contradictory, resulting in some confusion among a broad cross-section of our clients. At this juncture, and given the fast-paced changes to the applicable orders and mandates, as well as the ambiguities inherent in the orders there is no “one-size-fits-all” approach to COVID-19-related legal matters. For example, several Bay Area Cities impose their own emergency orders that mirror but in many cases are more stringent than the Statewide or County orders. As a result, contracts, employment issues, ongoing lawsuits and other matters impacted by the COVID-19 outbreak should be analyzed on a case-by-case basis and with the assistance of Sweeney Mason.

Sweeney Mason LLP is in daily contact with governmental offices and various trade organizations to monitor the developments surrounding the COVID-19 outbreak. While much of

our personnel continues to work remotely, Sweeney Mason is fully operational and will continue to assist our clients and community with their legally related issues and concerns during this uncertain time.

*For more information, please contact our employment team at 408-356-3000 or via email: Roger Mason at [rmason@smwb.com](mailto:rmason@smwb.com) or Rachael Brown at [reb@smwb.com](mailto:reb@smwb.com).*

*The following links may assist you in evaluating some of the issues you may have. Stay safe!*

***DOL Publications:***

[FFCRA FAQs](#)

[FFCRA Required Notice](#)

***IRS Guidelines:***

[FFCRA Tax Credits](#)

[Employee Retention Tax Credits Under CARES Act](#)

***CDC Guidelines:***

[Interim Guidance on Risk Assessment for Individuals with Possible COVID-19 Exposure](#)

[Interim Guidance for Businesses and Employers](#)

***OSHA:***

[Preparing Your Workplace for COVID-19](#)

***California:***

[Stay at Home Order](#)

[EDD COVID-19 Overview](#)

[EDD COVID-19 FAQs](#)

***Santa Clara County:***

[Updated Shelter-in-Place](#)

[Shelter-in-Place Order](#)

[Public Health Department FAQs on the Shelter in Place Order](#)



The information provided in this publication is general in nature and is not intended to answer every question that may arise under different fact situations and should not be relied on in the place of professional advice in a given case. If you have specific questions, please contact Sweeney Mason LLP.

SWEENEY MASON LLP's philosophy is that by educating our clients, and other businesses, about their legal obligations, including changes in the law, we best serve our legal goal of minimizing or preventing expensive litigation.

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