Larson Gross
CPAs & Consultants

CAA, 2021: Paid Sick and Family Leave and FSA Changes

The Consolidated Appropriations Act, 2021 was signed into law late last year. In this document we will discuss how the Act affected paid sick and family leave as well as Flexible Spending Accounts.

Paid Sick and Family Leave

Last year, the Families First Coronavirus Response Act (FFCRA) required many employers to provide paid sick and family leave to employees who were affected by COVID-19. To help cover these costs, the FFCRA offered tax credits to employers to cover 100 percent of the paid sick or family leave wages paid to employees, up to certain limits. Although the FFCRA expired on December 31, 2020, the recent Consolidated Appropriations Act extended the tax credit until March 31, 2021. This means that even though paid sick and family leave is no longer required after December 31, 2020, an employer who voluntarily offers paid sick or family leave between January 1, 2021 and March 31, 2021 may still claim the payroll tax credit.

It's important to note that the Consolidated Appropriations Act did not create a new allotment of FFCRA tax credits for employees in 2021. Employers can't claim the tax credit for employees who have previously exhausted their 80-hour Emergency Paid Sick Leave or for those who have maxed out their $10,000 Emergency Family Medical Leave in 2020.

For employers whose traditional FMLA plans run on a calendar year, employees may have qualified for a new block of unpaid, job-protected FMLA on January 1st. If the employer chooses to pay their employees in that case, they will not be able to claim the FFCRA tax credit.

Non-FFCRA Employer-paid Family and Medical Leave Tax Credit

The Consolidated Appropriations Act did offer some additional tax relief for employers by extending a provision from the Tax Cuts and Jobs Act that was passed in 2017. Originally, the Tax Cuts and Jobs Act allowed a general business tax credit for employers who paid their employees at least 50% of their normal wages for at least two weeks per year. That tax credit was previously only available for the 2018 and 2019 tax years. The Consolidated Appropriations Act has extended the credit now for five years through December 31, 2025.

CAA Changes for Health and Dependent Care Flexible Spending Accounts

The Consolidated Appropriations Act also provides four important changes for Health and Dependent Care Flexible Spending Accounts with regard to carryovers, grace periods, plan election changes, and payouts post participation.

Carryovers

Most employees who have health or dependent care flexible spending accounts are used to the fact that they can't carry over their balances from one year to the next. The Consolidated Appropriations Act, however, does provide the option to carry over. For plan years ending in 2020, a plan may permit participants to carry over unused amounts in their health care or dependent care flexible spending account. Similarly, in 2021, a plan may permit participants to carry over unused amounts in their health care or dependent care FSA into 2022.

Please note that if a participant was not in a high deductible health plan for the prior year, but is in one for the affected years, this could affect their ability to contribute to a health savings account. Employers should consult with their HR representatives to understand those eligibility requirements.

Grace Periods

Health and dependent care FSAs that have a grace period allow participants additional time to submit claims. Typically, plans that end on December 31 would give participants until March 15 to submit their claims. The Consolidated Appropriations Act changed this to allow health or dependent care FSAs to extend that grace period for plans with year-ends in 2020 or 2021 to 12 months after the end of that plan year. For example, plans with a December 31, 2020 year-end may extend the grace period to December 31, 2021. There may be some eligibility restrictions for participants who were not in a high deductible health plan for the prior year but are for the affected years.

Plan Election Changes

The Consolidated Appropriations Act also makes it possible for employers to allow participants in their health or dependent care FSAs to make prospective election changes without a change in status for plan years ending in 2021. As a reminder, health care FSA participants can claim amounts they've elected for the year, even if those funds have not been contributed, so prospective changes might be a cost risk for employers who choose to allow them.

Post-participation Payouts

For health care FSAs only, the Consolidated Appropriations Act allows participants to submit claims for reimbursement from the plan through the end of the plan year, including any grace period, even if the employee stopped participating in the plan during either 2020 or 2021. In other words, for a calendar year plan with an extended grace period, someone who leaves the company on July 1, 2020, would be able to receive reimbursements from their account until December 31, 2021.

For dependent care FSAs only, there is a provision that allows participants to claim reimbursements for children who are under the age of 14 if certain conditions are met. The provision is intended to provide benefits for dependents who "aged out" by turning 13 during the pandemic.

Final Thoughts

This document is intended to provide a general overview of Paid Sick and Family Leave and FSA changes and is not intended to be a substitute for discussing the changes with one of our advisors. Please contact our office to discuss how these changes may impact you and your business.

About Larson Gross

Ted Larson and Dennis Gross founded our firm in 1949. They built the business based on excellence, passion, integrity, trust and pro-action — values still important to us more than seven decades later.

Even well into their retirement years, Ted Larson and Dennis Gross continued to have the best interest of the firm at heart. Mr. Larson would come into the office on a regular basis to meet every new face and make a personal connection with each of our team members. He remembered the name of every employee, as well as the names of their spouses and children, and would greet clients by name as he passed by the reception desk. Sometimes, you'd even find a newspaper clipping on your desk that Mr. Larson dropped off, highlighting that your son made the honor roll. This is the example of a genuine relationship we strive to embody with our people and clients.

Today, we're led by ten partners who are growing our firm with respect for where we've come from and a new vision for future success. Our 120-plus team members and three offices located in Bellingham, Lynden and Burlington make us the 10th largest public accounting firm in the Puget Sound region. While we're determined to expand our impact and help strengthen as many businesses and individuals as we can, we're also committed to remaining a locally-owned organization. We're incredibly proud of where we've come from and look forward to a future of possibility

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