



National Compliance Update

USI EMPLOYEE BENEFITS

April 22, 2021

Employers Encouraged to Provide PTO for Vaccinations

On April 21, 2021, President Biden issued an announcement to encourage all employers to offer paid time off for employees to schedule vaccinations and recover from any side effects. This announcement highlights and reinforces the provisions of the American Rescue Plan Act (“ARPA”) and includes:

- A Tax Credit for Small- and Medium-sized Businesses (under 500 employees) to Fully Offset the Cost of Emergency Paid Sick Leave (EPSL) for Employees to Get Vaccinated and Recover from Any Side Effects of Vaccination.
 - This tax credit is *voluntary*. Employers that voluntarily choose to allow employees to take EPSL on and after April 1, 2021, can obtain reimbursement through a tax credit.
 - This tax credit is part of the FFCRA expansion and extension that occurred under ARPA and is available through September 30, 2021.
 - The credit for EPSL is for up to 80 hours (i.e., 10 workdays) of EPSL per employee and up to \$511 per day of EPSL provided between April 1 and September 30, 2021.
 - EPSL may be taken for, among other specific COVID-19 related reasons, an employee’s need for leave to receive COVID–19 vaccinations and/or to recover from any side effects of vaccination.
 - If an employer chooses to continue offering EPSL on and after April 1, 2021, EPSL taken by an employee prior to April 1, 2021, will not count towards the 80 hours of EPSL employees can take on and after April 1, 2021.
 - Employers can also choose to continue offering emergency paid FMLA (EFMLA) on and after April 1, 2021, through September 1, 2021, to employees who are not able to work or telework because their children’s school or daycare is closed for COVID-19-related reasons. Employers that choose to do so can obtain reimbursement through a tax credit.
- A Call for Employers – Large and Small – to Take Additional Steps to Help Get Their Employees and Communities Vaccinated.
 - The President is encouraging all employers to use their unique resources to educate, encourage and incentivize their employees to get vaccinated. The announcement suggests employers could include discounts for vaccinated individuals or offer product giveaways.

This summary is intended to convey general information and is not an exhaustive analysis. This information is subject to change as guidance develops. USI does not provide legal or tax advice. For advice specific to your situation, please consult an attorney or other professional.

- **USI Note:** We are awaiting additional guidance from the EEOC regarding how vaccine incentives will be treated with regard to wellness program limitations.
- Employers who have decided not to offer EPSL on and after April 1, 2021, can still choose to provide their employees with additional PTO in order to get vaccinated. It is unclear at this time whether or not an employer that offers additional PTO for vaccination *only* and not for the other reasons specified under EPSL will be eligible for the tax credit.

TAX CREDITS UNDER THE AMERICAN RESCUE PLAN

Along with this announcement, the IRS released a Fact Sheet explaining how small and medium-sized employers that voluntarily provide EPSL may claim the tax credit¹ that is an offset against the employer's share of the Medicare tax.

- The tax credit for paid sick leave wages is equal to the EPSL paid for COVID-19 related reasons for up to two weeks (80 hours), limited to \$511 per day and \$5,110 in the aggregate, at 100 percent of the employee's regular rate of pay.
- The tax credit for paid family leave wages is equal to the family leave wages paid for up to twelve weeks, limited to \$200 per day and \$12,000 in the aggregate, at 2/3rds of the employee's regular rate of pay.

In anticipation of claiming the credits on the Form 941, Employer's Quarterly Federal Tax Return, eligible employers can keep the federal employment taxes that they otherwise would have deposited, including federal income tax withheld from employees, the employees' share of social security and Medicare taxes and the eligible employer's share of social security and Medicare taxes with respect to all employees up to the amount of credit for which they are eligible. The Form 941 instructions explain how to reflect the reduced liabilities for the quarter related to the deposit schedule. If an eligible employer does not have enough federal employment taxes set aside to cover amounts provided as EPSL or EFMLA, the employer may request an advance of the credits using Form 7200, Advance Payment of Employer Credits Due to COVID-19.

EMPLOYER ACTION STEPS

Employers with less than 500 employees who were not voluntarily offering an extension of EPSL may wish to reconsider their position to help encourage employee vaccination.

Employers should work with counsel and tax advisors to determine appropriate leave policies and to effectively claim any tax credits available.

RESOURCES

- FACT SHEET: President Biden to Call on All Employers to Provide Paid Time Off for Employees to Get Vaccinated After Meeting Goal of 200 Million Shots in the First 100 Days : <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/21/fact-sheet-president-biden-to-call-on-all-employers-to-provide-paid-time-off-for-employees-to-get-vaccinated-after-meeting-goal-of-200-million-shots-in-the-first-100-days/>

¹ The amount of these tax credits is increased by allocable health plan expenses and contributions for certain collectively bargained benefits, as well as the employer's share of social security and Medicare taxes paid on the wages (up to the respective daily and total caps).

- IRS: Under the American Rescue Plan, employers are entitled to tax credits for providing paid leave to employees who take time off related to COVID-19 vaccinations:
<https://www.irs.gov/newsroom/employer-tax-credits-for-employee-paid-leave-due-to-covid-19>
- IRS Fact Sheet: Fight Covid-19 Offer Paid Leave:
<https://home.treasury.gov/system/files/136/Paid-Leave-Credit-Snapshot.pdf>
- USI's National Compliance Update, "[DCAP Update and Other Highlights from ARPA](#)" (March 18, 2021).

USI usi.com/locations

This summary is intended to convey general information and is not an exhaustive analysis. This information is subject to change as guidance develops. USI does not provide legal or tax advice. For advice specific to your situation, please consult an attorney or other professional.

These materials are produced by USI Insurance Services for educational purposes only. Certain information contained in these materials is considered proprietary information created by USI. Such information shall not be used in any way, directly or indirectly, detrimental to USI and/or their affiliates.

Neither USI nor any of its respective representatives or advisors has made or makes any representation or warranty, expressed or implied, as to the accuracy or completeness of these materials. Neither USI nor their respective representatives or advisors shall have any liability resulting from the use of these materials or any errors or omission therein. These materials provide general information for the use of our clients, potential clients, or that of our clients' legal and tax advisors.

IRS Circular 230 Disclosure: USI Insurance Services and its affiliates do not provide tax advice. Accordingly, any discussion of U.S. tax matters contained herein (including any attachments) is not intended or written to be used, and cannot be used, in connection with the promotion, marketing or recommendation by anyone unaffiliated with USI of any of the matters addressed herein or for the purpose of avoiding U.S. tax-related penalties.

© 2021 USI Insurance Services. All Rights Reserved.