Guidance Includes Answers to 123 New Questions

On June 11, 2021, the IRS released new FAQs about tax credits for eligible employers who voluntarily provide paid employee leave under the Families First Coronavirus Response Act (FFCRA). The FFCRA paid sick and family leave requirements themselves expired Dec. 31, 2020, but subsequent legislation—most recently the American Rescue Plan Act—extended and enhanced the tax credits available for employers that choose to provide FFCRA leave through Sept. 30, 2021.

There are 123 new FAQs, divided into 16 subtopics. They contain information on how employers may claim the tax credits, including how to file for and compute the applicable credit amounts, and how to receive advance payments for and refunds of the credits. The FAQs clarify the following issues, among others:

- Daily and aggregate wage limits do not include health plan expenses or the employer's share of Social Security and Medicaid taxes.
- Qualified leave wages do not include federal taxes on the wages.
- Details about the last day an employer may file for advance payment of the credit.
- Even if the employer did not initially pay the employee when the employee became eligible for qualified leave wages, the credit may still apply for wages paid for leave taken between April and September, 2021.
- Employers must collect and maintain specific information from employees (and may require more than that specified) to substantiate eligibility for the credits. Records must be kept for six years.

The tax credits apply to employers with fewer than 500 employees, and they are refundable and advanceable. Eligible wages are subject to daily and total limits.