

Employer Tax Credits for Employee Paid Leave Due to COVID-19 Applies to Government Entities

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The Internal Revenue Service (IRS) recently published guidance defining “Eligible Employer” for purposes of the American Rescue Plan Act of 2021 (ARPA) tax credits.

Under ARPA, certain employers can claim refundable tax credits that reimburse them for the costs of providing additional paid sick and family leave to employees due to COVID-19. These tax credits are available to employers that pay for sick and family leave between April 1 and September 30, 2021.

The recent guidance clarified that the tax credits apply to municipalities, school districts, public charter schools, and other government entities.

Specifically, the IRS guidance defines eligible employers to include, “... a governmental employer, other than the federal government and any agency or instrumentality of the federal government that is not an organization described in section 501(c)(1) of the Internal Revenue Code.”

In order to claim the tax credit, employers can report their total paid sick and family leave wages for each quarter on their federal employment tax return. In preparation for receiving the tax credit, employers can keep the federal employment taxes that they otherwise would have deposited. These federal employment taxes include federal income tax withheld from employees, and both the employees' share and the eligible employer's share of Medicare taxes up to the maximum amount of credit available. Legally, the tax credit also applies to social security taxes. However, public employers in Massachusetts do not withhold social security taxes because of the State's mandatory state retirement



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program.

If an employer does not have enough federal employment taxes set aside to cover the paid sick and family leave wages, employers can request an advance of the credits by filing [Form 7200, Advance Payment of Employer Credits Due to COVID-19](#). The eligible employer will account for the amounts received as an advance when it files its [Form 941, Employer's Quarterly Federal Tax Return](#) for the relevant quarter.

If you have any questions regarding the ARPA tax credits, please do not hesitate to reach out to any member of Mirick O'Connell's Labor, Employment, and Employee Benefits Group.