The Families First Coronavirus Response Act imposes new job protections for workers, paid leave mandates on employers and a generous reimbursement scheme for employers that are designed to hold nonprofit and for-profit employers. The law provides two weeks of paid sick leave, a subsequent ten weeks of partially paid family leave for care of a child. Refundable tax credits in many cases will result in the Treasury Department writing checks to employers to cover some of the costs of the mandates.

Two Weeks of Emergency Paid Sick Leave:
The law (at Sec. 5102) requires employers with fewer than 500 employees (including nonprofits) and government employers to provide their employees two weeks (10 days) of paid sick leave, paid at the employee’s regular rate, to quarantine or seek a diagnosis or preventive care for the coronavirus. It also requires payment at two-thirds the employee’s regular rate to care for a family member for those purposes or to care for a child whose school has closed or child care provider is unavailable due to the coronavirus. These provisions expire at the end of December 2020. The Secretary of Labor is authorized to exclude health care providers and emergency responders from the definition of employees allowed to take leave, exempt small businesses, including nonprofits, with fewer than 50 employees, and ensure consistency between paid family and paid sick standards and tax credits. In general, employees are entitled to 80 hours of paid sick time, and are immediately eligible for the leave under this bill.

Twelve Weeks of Emergency Family and Medical Leave:
The law (at Section 3102) expands the number of workers who can take up to 12 weeks of job-protected leave under the Family and Medical Leave Act for coronavirus-related reasons. After the two weeks of emergency paid leave (above), employees of nonprofit private employers with fewer than 500 employees will be eligible to receive at least two-thirds of each employee’s usual pay. Employees must have been employed for at least 30 days to qualify and meet a “qualifying need related to a public health emergency.” The qualifying reasons for the emergency paid leave are caring for a child if the child’s school or childcare center is closed due to coronavirus. The provisions would also expire at the end of 2020. Generally, employees taking Emergency FMLA have job protection, but the bill provides an exception for employers with fewer than 25 employees if the position no longer exists following leave due to operation changes from the public health emergency. Health care providers and emergency responders are also excluded from the definition of employees allowed to take this leave, and the law exempts small businesses, including nonprofits, with fewer than 50 employees.

Payroll Taxes:
Employers can delay the employer portion of the 6.2% Social Security tax imposed on employees’ wages between the date of enactment and 12/31/20. Fifty percent is due by 12/31/21 and the remainder by 12/31/22.

Reimbursable Payroll Tax Credits Available:
Employers paying for the mandated paid leave are entitled to claim a refundable tax credit. Specifically, the tax credit is allowed against the employer portion of payroll taxes, and any paid leave costs that exceed the amount of payroll taxes owed will be refundable to the employer at the end of each quarter. This means the federal government will cover all or a portion of the costs of these paid leave mandates. The amounts depend upon what the employee is doing.
Under the Paid Sick Leave Mandate:
Employers paying for employees who must self-isolate, obtain a diagnosis, or comply with self-isolation recommendation with respect to coronavirus may receive tax credits of up to $511 per day. Payments to employees caring for a family member or for a child whose school or child care center is closed, qualified sick leave wages are capped at $200 per day. Both types of wages are capped at 10 days in the aggregate. (Section 7001)

Paid Family and Medical Leave Mandate:
The refundable tax credit for qualified family leave provision is capped at $200 per day and $10,000 each quarter. (Section 7003)