

COVID Relief Bill Updates: Covid Sick Pay Not Mandatory in 2021

- Offering Employer Paid Sick Leave (EPSL) and Employee Family Medical Leave Act (EFMLA) after December 31 will become *optional* for employers.
- An employee will no longer be entitled by law to take EPSL or EFMLA, even if they have a qualifying reason.
- Employers who choose to offer these paid leaves can still receive a tax credit if they follow the current EPSL and EFMLA rules, including job protection.
- The extension of the tax credit will be available for leaves taken through March 31, 2021.
- Employees will not get new hours to use—the unused portion of their original allotment that remains on January 1 is how much they will be able to use through March 31. For instance, if an employee who was entitled to 80 hours of EPSL between April 1 and December 31 used 40 of those hours in 2020, they'd have 40 hours left to use between January 1 and March 31, 2021.
- There is a *possible* exception when an employee's EFMLA bank could reset if employers use the calendar year or another fixed FMLA tracking period that starts before March 31 *and* the DOL fails to readopt the regulations they wrote related to EFMLA. We expect the IRS, DOL, or both, to provide guidance soon that will clear up whether certain employers will need to offer additional hours. We will update Comply as information becomes available.