



Monthly Newsletter

by Benefit Partners Group, LLC

July 2021

Supreme Court Rejects Challenge to the ACA's Individual Mandate

On June 17, 2021, the U.S. Supreme Court [rejected](#) a lawsuit challenging the constitutionality of the Affordable Care Act's (ACA) individual mandate in a 7-2 ruling.

This lawsuit was filed in 2018 by 18 states as a result of the 2017 [tax reform law](#) that eliminates the individual mandate penalty. In 2012, the U.S. Supreme Court upheld the ACA on the basis that the individual mandate is a valid tax. With the penalty's elimination, the appeals court in this case [determined](#) that the individual mandate is no longer valid under the U.S. Constitution.

Supreme Court's Ruling

The Supreme Court determined that the plaintiffs in this case did not have standing to sue, meaning that they have not shown that they suffered any injury as a result of the elimination of the individual mandate penalty and, therefore, do not have a legal right to sue. As a result, the ACA as it exists today will remain in place.

According to the Court, allowing a lawsuit "attack[ing] an unenforceable statutory provision [to continue] would allow a federal court to issue what would amount to 'an advisory opinion without the possibility of any judicial relief.'"

The Court did not make any determinations on any other issue in the case, including the validity of the individual mandate or whether the rest of the ACA



can be severed from the individual mandate provision. However, this case is now concluded and the ACA will remain in place.

OSHA Updates Mitigation and Prevention Guidance for COVID-19

On June 10, 2021, the Occupational Safety and Health Administration (OSHA) updated its [guidance](#) on mitigating and preventing the spread of COVID-19 in the workplace. The guidance applies to employers and employees in settings outside of the health care industry and is now focused only on protecting unvaccinated or otherwise at-risk employees in their workplaces.



Employers can use this OSHA guidance to help them take the appropriate steps to prevent exposure and infection of unvaccinated or otherwise at-risk employees.

According to OSHA, most employers no longer need to take steps to protect their fully vaccinated employees who are otherwise not at risk from COVID-19 exposure unless otherwise required by federal, state or local laws.

The recommendations are advisory in nature, informational in content and intended to provide a safe and healthy workplace free from recognized hazards that are causing or likely to cause death or serious physical harm.

Action Steps

Under the guidance, employers with unvaccinated or otherwise at-risk employees should update their COVID-19 prevention plans to provide policies and procedures for those specific employees to follow. Employers should also review the guidance for vaccinated employees working with unvaccinated employees and update their policies and procedures accordingly.

IRS Posts FAQs on ARP Tax Credits for Paid Sick and Family Leave

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 (ARP)—extended and enhanced the tax credits available for employers that choose to provide FFCRA leave through Sept. 30, 2021.



The New FAQs

There are 123 new FAQs, divided into 16 subtopics. They include 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.
- The last day an employer may file for advance payment of the credit.
- The credit may apply for leave between April and September 2021, even if the employer did not pay the employee initially.
- 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.

Paid Sick and Family Leave Credits

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

HR Action Steps for Employee Name Changes

With the summer wedding season underway, many employees may soon be changing their names. As a result, in the coming months, it is critical for employers to ensure that each employee's name is accurately reflected on required forms and internal records. Watch the video below to learn how to stay compliant.



For additional HR guidance, visit our [Human Resources](#) section.

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