



MOST COMMON WEBINAR QUESTIONS ASKED (AND ANSWERED)

We received many questions prior to and during the webinar – thank you for participating! Many of the questions fell into a few categories and we've provided responses to these below. The [“At-A-Glance” document](#), the [MI Chamber FAQ](#) and [LEO FAQ](#) documents also answer many of the questions posed.

As you prepare your internal systems and structures for ESTA, we strongly encourage everyone to review the free materials provided through the resource links, re-listen to the webinar, and reach out to [HRM](#) for individual consultation if you have questions specific to your company/situation. Please note that consulting fees may apply.

Which employers have to follow ESTA?

ALL employers doing business in Michigan (or those who have employees working in Michigan), regardless of size, will be required to offer paid sick time under ESTA. This includes churches, schools, nonprofits, associations, state governmental agencies, for profits, municipalities, public employers, private employers, etc. The United States Government is the only employer exempted under this Act.

Which employees/workers are eligible for ESTA?

ESTA applies to ALL employees regardless of status or hours worked such as full-time, part-time, hourly, salary, temporary and seasonal. Every W-2 position is covered by the Act, including roles such as coaches, election workers, seasonal positions, elected positions, interns, student employees and board members. Independent contractors (those paid via 1099) are NOT covered under ESTA.

If you have employees who work very few hours and/or seasonally, consider the other parameters of the Act including the 90-day allowable waiting period, the accrual schedule of 1 hour per 30 hours worked, and the rehire parameter of 6 months to better understand how, in practice, the ESTA hours will be accrued and used for these employees.

Some of our employees don't currently track their hours because they are exempt or only receive a stipend. Does this mean that we have to institute a new time tracking system and have people clock in and out?

While you may not have to institute a clock in/clock out system for everyone who is covered under ESTA, you will need to have a mechanism to track hours worked. Exempt employees would accrue ESTA time based on an assumed 40-hour work week, unless the employee's normal work schedule is less than 40 hours, so employers may choose to automatically assign the predetermined hours per week to those employees without having them punch a timeclock to verify it. You don't have to track exempt employee hours beyond their expected work schedule.

We have an existing combined PTO bank or a designated sick bank that accrues well over 72 hours. We meet the requirements of the Act, right?



Probably not. Under the Act, your paid time off policies must provide paid leave in at least the same amounts, for the same purposes and under the same conditions as outlined in the Act to be considered in compliance. The requirements under ESTA include more than the annual usage amounts you grant to employees. Employer policies also have to comply with eligibility requirements, how the time can be used, notification requirements, documentation limitations, and disciplinary actions. These are likely quite different from an employer's current policies and practices. For this reason, it may be best in most cases for employers to separate out sick time from personal/vacation time. The sick time rules could be made to comply with ESTA requirements while the remaining personal/vacation time policies can remain intact.

Can we frontload the ESTA time, how much time can be carried over, and do we have to pay it out?

There is no prohibition preventing an employer from providing the total amount of sick time at the beginning of the 12-month period so long as the accrual amount calculated is accurate and all other provisions of the Act are followed.

Employers must allow employees to rollover any unused earned sick time from one year to the next. There is no cap on the amount of unused time that can rollover. There is only a cap on the number of hours an employee can USE each year (72 hours).

There is no requirement that an employer pay out for unused sick time.

An example that might be helpful regarding how frontloading and carry over would be implemented after the first year is as follows:

The employer has chosen the calendar year as the time period for ESTA accrual and use. Employee A accrued 60 ESTA hours between February 21, 2025 and December 31, 2025. They used eight hours of ESTA during that same time period. They had 52 hours remaining that were carried over into 2026. The company has also chosen to frontload ESTA hours; therefore, an additional 69.33 hours is added to their ESTA bank (2080 hours/30 hours) totaling 121.33 hours. The employee is only allowed to use 72 hours of ESTA time during the 2026 calendar year, as per the Act.

Employers are required to ensure that accruals are accurate, so in the example above, if the employee is hourly and ends up working overtime hours in 2026, their ESTA bank may need to be adjusted throughout the year to account for this overage (as the calculation used at the start of the year assumed the employee would work a typical schedule of 2080 hours). Frontloading hours does not eliminate the need for periodic comparisons of hours worked vs. ESTA hours accrued/awarded, nor does it make reporting requirements any easier to comply with.

We have employees that earn a variable rate of pay – based on commissions, percentage of collections, piecemeal work, etc. How do I know how much to pay them when they use ESTA hours?



According to the Act, “For any employee whose hourly wage varies depending on the work performed, the ‘normal hourly wage’ means the average hourly wage of the employee in the pay period immediately prior to the pay period in which the employee used paid eared sick time.” So, employers would need to look at the prior pay period for that employee to determine their average hourly wage and then use that amount when paying for the ESTA absence. Because the rate of pay may change from pay period to pay period based on the work performed by these employees, this calculation will need to be done each time an employee in this category uses ESTA.