



Overview of COVID-19-Related Tax Credits for Small- and Midsize Businesses

The FFCRA requires employers to provide paid leave through two separate provisions: (i) the Emergency Paid Sick Leave Act (EPSLA), which entitles workers to up to 80 hours of paid sick time when they are unable to work for certain reasons related to COVID-19, and (ii) the Emergency Family and Medical Leave Expansion Act (Expanded FMLA), which entitles workers to certain paid family and medical leave. The FFCRA provides that employers subject to the EPSLA and the Expanded FMLA paid leave requirements are entitled to fully refundable tax credits to cover the cost of the leave required to be paid for these periods of time during which employees are unable to work (which for purposes of these rules, includes telework). Certain self-employed persons in similar circumstances are entitled to similar credits. The following section provides an overview of FFCRA's refundable tax credit provisions, and the FAQs that follow provide more detailed information regarding the requirements, limitations, and application of the paid leave credits. The Wage and Hour Division of the Department of Labor (DOL) administers the EPSLA and the Expanded FMLA and has posted FAQs and relevant information about the paid leave requirements at the Department of Labor's [Families First Coronavirus Response Act: Questions and Answers](#).

Eligible Employers are entitled to refundable tax credits for qualified sick leave wages and qualified family leave wages (collectively "qualified leave wages"), under sections 7001 and 7003 of the FFCRA respectively. These tax credits are increased by the qualified health plan expenses allocable to, and the Eligible Employer's share of Medicare tax on, the qualified leave wages. Eligible Employers are businesses and tax-exempt organizations with fewer than 500 employees that are required to provide paid sick leave under the EPSLA and to provide paid family leave under the Expanded FMLA (note that although the FFCRA requires most government employers to provide paid leave, it does not entitle those governmental employers to tax credits for this leave). For more information about Eligible Employers, see "[What employers may claim the tax credits?](#)" Under sections 7002 and 7004 of the FFCRA, self-employed individuals are entitled to equivalent credits based on similar circumstances in which the individual is unable to work. For more information about how self-employed individuals can claim the credits see "[Specific Provisions Related to Self-Employed Individuals](#)". The refundable tax credits apply to qualified sick leave wages and qualified family leave wages paid for certain periods when an employee is unable to work, as described below, during the period beginning April 1, 2020, and ending December 31, 2020. The same period is used to determine credits for qualified sick leave equivalent amounts and qualified family leave equivalent amounts for certain self-employed individuals.

Overview of Paid Sick Leave Refundable Credit

The EPSLA requires Eligible Employers to provide employees with paid sick leave if the employee is unable to work (including telework) due to any of the following:

- the employee is under a Federal, State, or local quarantine or isolation order related to COVID-19;
- the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- the employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- the employee is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- the employee is caring for the child of such employee if the school or place of care of the child has been closed, or the child care provider of such child is unavailable, due to COVID-19 precautions;
- the employee is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.



An employee who is unable to work for reasons due to a COVID-19 circumstance described in (1), (2) or (3) above is entitled to paid sick leave for up to two weeks (up to 80 hours) at the employee's regular rate of pay, or, if higher, the Federal minimum wage or any applicable State or local minimum wage, up to \$511 per day and \$5,110 in the aggregate. For more information, see ["What is the rate of pay for qualified sick leave wages if an employee is unable to work due to their own health needs?"](#)

An employee who is unable to work due to a COVID-19 circumstance described in (4), (5) or (6) above is entitled to paid sick leave for up to two weeks (up to 80 hours) at 2/3 the employee's regular rate of pay or, if higher, the Federal minimum wage or any applicable State or local minimum wage, up to \$200 per day and \$2,000 in the aggregate. For more information, see ["What is the rate of pay for qualified sick leave wages if an employee is unable to work because he or she needs to care for others?"](#)

The Eligible Employer is entitled to a fully refundable tax credit equal to the required paid sick leave. This tax credit also includes the Eligible Employer's share of Medicare tax imposed on those wages and its allocable cost of maintaining health insurance coverage for the employee during the sick leave period (qualified health plan expenses). The Eligible Employer is not subject to the employer portion of social security tax imposed on those wages. (Eligible Employers subject to the Railroad Retirement Tax Act are not subject to either social security tax or Medicare tax on the qualified sick leave wages; accordingly, they do not get a credit for Medicare tax.)

Overview of Paid Family Leave Refundable Credit

In addition to the paid sick leave credit, under the expanded FMLA, an employee who is unable to work (including telework) because of a need to care for a child whose school or place of care is closed or whose child care provider is unavailable due to COVID-19, as described in (5) above, is entitled to paid family and medical leave equal to two-thirds of the employee's regular pay, up to \$200 per day and \$10,000 in the aggregate. Up to ten weeks of qualifying leave can be counted towards the family leave credit. For more information, see ["What is included in "qualified family leave wages"?"](#)

The Eligible Employer is entitled to a fully refundable tax credit equal to the required paid family and medical leave (qualified family leave wages). This tax credit also includes the Eligible Employer's share of Medicare tax imposed on those wages and its cost of maintaining health insurance coverage for the employee during the family leave period (qualified health plan expenses). The Eligible Employer is not subject to the employer portion of social security tax imposed on those wages. (Eligible Employers subject to the Railroad Retirement Tax Act are not subject to either social security tax or Medicare tax on the qualified family leave wages; accordingly, they do not get a credit for Medicare tax.) For more information, see ["How does an Eligible Employer determine the amounts of the qualified family leave wages it is required to pay?"](#)

Payment of the Sick and Family Leave Credit

Eligible Employers are entitled to receive a credit in the full amount of the qualified sick leave wages and qualified family leave wages, plus allocable qualified health plan expenses and the employer's share of Medicare tax, paid for leave during the period beginning April 1, 2020, and ending December 31, 2020. The credit is allowed against the taxes imposed on employers by section 3111(a) of the Internal Revenue Code (the "Code") (the Old-Age, Survivors, and Disability Insurance tax (social security tax)) and section 3221(a) of the Code (the Railroad Retirement Tax Act Tier 1 rate) on all wages and compensation paid to all employees. If the amount of the credit exceeds the employer portion of these federal employment taxes, then the excess is treated as an overpayment and refunded to the employer under sections 6402(a) or 6413(a) of the Code. The qualified sick leave wages and qualified family leave wages are not subject



to the taxes imposed on employers by sections 3111(a) and 3221(a) of the Code and employers (other than those that are subject to the Railroad Retirement Tax Act) are entitled to an additional credit for the taxes on employers imposed by section 3111(b) of the Code (Hospital Insurance (Medicare tax)) on such wages.

Eligible Employers that pay qualified leave wages will be able to retain an amount of all federal employment taxes equal to the amount of the qualified leave wages paid, plus the allocable qualified health plan expenses and the amount of the employer's share of Medicare tax imposed on those wages, rather than depositing them with the IRS. The federal employment taxes that are available for retention by Eligible Employers include federal income taxes withheld from employees, the employees' share of social security and Medicare taxes, and the employer's share of social security and Medicare taxes with respect to all employees.

If the federal employment taxes yet to be deposited are not sufficient to cover the Eligible Employer's cost of qualified leave wages, plus the allocable qualified health plan expenses and the amount of the employer's share of Medicare tax imposed on those wages, the employer will be able file a request for an advance payment from the IRS. The IRS expects to begin processing these requests in April 2020.

Eligible Employers claiming the credits for qualified leave wages , plus allocable qualified health plan expenses and the Eligible Employer's share of Medicare taxes, must retain records and documentation related to and supporting each employee's leave to substantiate the claim for the credits, as well retaining the Forms 941, Employer's Quarterly Federal Tax Return, and 7200, Advance of Employer Credits Due To COVID-19, and any other applicable filings made to the IRS requesting the credit.

For more detail on the refundable tax credits and the procedures to receive payment of the advance credit, see "[How to Claim the Credits.](#)"

Eligible Employers claiming the credits for qualified leave wages , plus allocable qualified health plan expenses and the Eligible Employer's share of Medicare taxes, must retain records and documentation related to and supporting each employee's leave to substantiate the claim for the credits, as well retaining the Forms 941, Employer's Quarterly Federal Tax Return, and 7200, Advance of Employer Credits Due To COVID-19, and any other applicable filings made to the IRS requesting the credit.