



Tax Credits for FFCRA Paid Leave*

The Family First Coronavirus Relief Act (FFCRA) permits employers to provide up to 80 hours of paid sick leave and up to 12 weeks of paid family leave to those affected by COVID-19. Employers can offset the costs of paid sick and family leave against payroll taxes.

■ FFCRA Paid Leave Tax Credits

The paid sick leave and expanded family and medical leave requirements of the FFCRA are no longer mandated as of December 31, 2020. Although FFCRA leave is no longer required, employers are allowed another calendar quarter of paid leave tax credits for two purposes: (1) to recover costs of providing required FFCRA leave in 2020, and (2) to *voluntarily* provide paid emergency "sick leave" and emergency "family and medical leave" through March 31, 2021. In other words: (1) if an employee took FFCRA-required leave in 2020, then the employer can claim the tax credits in 2021; and (2) if an employer elects, voluntarily, to provide paid leave to an employee for an FFCRA-qualifying reason in Q1 of 2021, then it can take payroll tax credits for providing such paid leave. The amount of the tax credit includes the employer's share of Medicare tax imposed on those wages and the cost of maintaining health insurance coverage for the employee during the leave period. Additionally, the employer does not need to pay Social Security tax on these leave wages.

■ Limits on FFCRA Tax Credits

The FFCRA limits paid leave up to 80 hours of paid sick leave and up to 12 weeks of paid family leave. Such limits apply to the available payroll tax credits. If an employee exhausted FFCRA paid leave in 2020, then there is no new "bank" of



FFCRA paid leave for 2021, even if employers choose, voluntarily, to provide such leave in 2021.

■ How to Claim - Immediate Offset of Employment Tax Deposits

Employers may obtain FFCRA tax credits in advance by retaining payroll tax funds rather than depositing them with the IRS. Employers may retain 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 retained payroll taxes are not enough to cover the entire tax credit owed to the employer, the employer may file a request for an advance payment from the IRS.

- **Retention of Payroll Taxes** - Employers may claim the credit on their federal employment tax returns. For most employers, this is reported on [Form 941, Employer's Quarterly Tax Return](#). Many employers are required to deposit their payroll taxes on a semiweekly basis. These employers may still retain any funds that they would otherwise be required to deposit on their normal deposit dates. These employers will reconcile any deductions from their semiweekly deposit schedule when they file their Form 941 for the quarter (along with [Schedule B, Report of Tax Liability for Semiweekly Schedule Depositors](#)).
- **Advance Payment** - If retained payroll taxes are not enough to cover the entire tax credit owed to the employer, you may file [Form 7200](#) to claim an advance payment of any credit owed. Employers must file Form 7200 in the month following the quarter in which they are claiming the credit. Employers may file Form 7200 multiple times in a quarter, if necessary. The IRS has provided additional guidance for filling out Form 7200 here: <https://www.irs.gov/instructions/i7200>.



■ Documentation

The IRS requires employers claiming FFCRA credits to retain the following documents for at least 4 years:

- Documentation to show how you figured the amount of qualified sick and family leave wages eligible for the credit.
- Documentation to show how you determined that the employees were qualified to receive sick and family leave wages, including any additional information set out in Frequently Asked Questions or other guidance on IRS.gov.
- Copies of completed Form(s) 7200 you filed with the IRS.

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