

## **Tax Credits for FFCRA Required Paid Leave\***

The Family First Coronavirus Relief Act (FFCRA) requires many employers to provide paid sick and family leave to those affected by the novel coronavirus. One silver lining is that the FFCRA allows employers to offset the costs of paid family and sick leave against payroll taxes. Here is what you need to know.

### **FFCRA Required Paid Leave Credit**

Employers may be eligible to receive a fully refundable tax credit equal to any required paid sick leave or paid family and medical leave required under the FFCRA from April 1, 2020 to December 31, 2020. 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.

### **Immediate Offset of Employment Tax Deposits**

Employers may obtain these 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.

### **How to Claim**

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](#). The IRS is currently revising Form 941 to add additional fields related to the various coronavirus credits. 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).

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.

*\*This alert was developed by NFIB based on the information currently available and our best interpretation of the CARES Act and guidance from U.S. Treasury. NFIB, however, cannot provide legal or tax advice and is not responsible for any errors or omissions.*

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