

# Family First Coronavirus Response Act

## Employer Responsibilities:

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- 2/3 for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at 2/3 for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or
6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

### **Applying for Tax Credits:**

Employers may fund 100% of qualified leave wages and allocable qualified health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages by reducing quarterly tax payments. Additionally, in instances where these tax payment reductions prove insufficient to fund the paid sick leave due to COVID-19, employers may access funds set aside for future tax payments and even apply for an advance from the IRS.

For more information on ways Eligible Employers can access funds for the credit before filing the Form 941, see [How can an Eligible Employer that is required to pay qualified leave wages fund the payment of these wages if the Eligible Employer does not have sufficient federal employment taxes set aside for deposit to cover those payments? Can the employer get an advance of the credits?](#)

### **The Process:**

Eligible Employers will report their total qualified leave wages and the related credits for each quarter on their federal employment tax returns, usually Form 941, Employer's Quarterly Federal Tax Return. Form 941 is used to report income and social security and Medicare taxes withheld by the employer from employee wages, as well as the employer's portion of social security and Medicare tax.

In anticipation of receiving the credits, Eligible Employers can fund qualified leave wages and allocable qualified health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages by accessing federal employment taxes, including withheld taxes that are required to be deposited with the IRS or by requesting an advance from the IRS.

An Eligible Employer may fund the qualified leave wages and allocable qualified health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages by accessing federal employment taxes, including those that the Eligible Employer already withheld, that are set aside for deposit with the IRS, for other wage payments made during the same quarter as the qualified leave wages. That is, an Eligible Employer that pays qualified leave wages to its employees in a calendar quarter before it is required to deposit federal employment taxes with the IRS for that quarter may reduce the amount of federal employment taxes it deposits for that quarter by the amount of the qualified leave wages and allocable qualified health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages paid in that calendar quarter. The Eligible Employer must account for the reduction in deposits on the Form 941, Employer's Quarterly Federal Tax Return, for the quarter.

**Example:** An Eligible Employer paid \$5,000 in qualified sick leave wages and qualified family leave wages and allocable health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages and is otherwise required to deposit \$8,000 in federal employment taxes, including taxes withheld from all of its employees, for wage payments made during the same quarter as the \$5,000 in qualified leave wages. The Eligible Employer may keep up to \$5,000 of the \$8,000 of taxes the Eligible Employer was going to deposit, and it will not owe a penalty for keeping the \$5,000. The Eligible Employer is then only required to

deposit the remaining \$3,000 on its required deposit date. The Eligible Employer will later account for the \$5,000 it retained when it files Form 941, Employer's Quarterly Federal Tax Return, for the quarter.

### **Filing for an Advance:**

Because quarterly returns are not filed until after qualified leave wages are required to be paid, some Eligible Employers may not have sufficient federal employment taxes set aside for deposit to the IRS to fund their required qualified leave wages. Accordingly, the IRS has a procedure for obtaining an advance of the refundable credits.

The Eligible Employer should first reduce its remaining federal employment tax deposits for wages paid in the same quarter to zero. If the permitted reduction in deposits does not equal the qualified leave wages and allocable qualified health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages, the Eligible Employer can file a [Form 7200, Advance Payment of Employer Credits Due to COVID-19](#), to claim an advance credit for the remaining qualified leave wages and any allocable qualified health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages it has paid for the quarter for which it did not have sufficient federal employment tax deposits.

**Example:** An Eligible Employer paid \$10,000 in qualified leave wages and allocable qualified health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages and is otherwise required to deposit \$8,000 in federal employment taxes, including taxes withheld from all of its employees, on wage payments made during the same quarter. The Eligible Employer can keep the entire \$8,000 of taxes that the Eligible Employer was otherwise required to deposit without penalties as a portion of the credits it is otherwise entitled to claim on the Form 941. The Eligible Employer may file a request for an advance credit for the remaining \$2,000 by completing [Form 7200](#).

An Eligible Employer may obtain the [Form 7200, Advance Payment of Employer Credits Due to COVID-19](#) online and may fax its completed form to [855-248-0552](tel:855-248-0552). After July 2, the minimum advance amount that can be claimed on a Form 7200 is \$25. A Form 7200 requesting an advance of less than \$25 will not be processed. Taxpayers can claim credits of less than \$25 on the Form 941.

### **Overpayments:**

The amount of qualified leave wages and any allocable qualified health plan expenses and the Eligible Employer's share of the Medicare tax on the qualified leave wages in excess of the social security tax the Eligible Employer owes for the quarter is refundable. If the amount of the credits exceeds the employer portion of social security tax, then the excess is treated as an overpayment and refunded to the employer under sections 6402(a) or 6413(a) of the Internal Revenue Code. Consistent with its treatment as an overpayment, the excess will be applied to offset any remaining tax liability on the Form 941, Employer's Quarterly Federal Tax Return, and the amount of any remaining excess will be reflected as an overpayment on the Form 941. Like other overpayments of federal taxes, the overpayment will be subject to offset under section 6402(a) of the Code prior to being refunded to the employer.

**Timing:**

An Eligible Employer can claim the credits once it has paid the employee for the period of paid sick leave or expanded family and medical leave, as long as the qualified leave wages relate to leave taken during the period beginning on April 1, 2020, and ending on December 31, 2020.

**Resources:**

Employer responsibilities:

<https://www.irs.gov/newsroom/covid-19-related-tax-credits-determining-the-amount-of-the-tax-credit-for-qualified-sick-leave-wages-faqs>

Applying for the credit:

<https://www.irs.gov/newsroom/covid-19-related-tax-credits-how-to-claim-the-credits-faqs#40>