

# 2020 Payroll Tax Changes - Employer Impact



PREPARED BY

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## Introduction

In this guide, we summarize ways small and mid-sized employers can take advantage of new, refundable payroll tax credits. These credits, along with payroll tax deferrals, are intended to provide the liquidity to retain employees during the COVID-19 shutdown period.

## Employee Retention Credit .....2

Did you receive a Paycheck Protection Program (PPP) loan? If so, skip this page and page 3. PPP recipients are not eligible for the Employee Retention Credit.

Have you applied for a PPP loan, but have not received monies yet (application pending approval)? Put this page and page 3 aside to review later in the unlikely event that your PPP application is not approved.

## Claiming the Employee Retention Credit .....3

The IRS has published Form 7200, which is a brand-new form. It is not required by employers. Rather, it is how to expedite access to the funds for the payroll tax credits for COVID-19 relief.

## Filing Form 7200 & Payroll Tax Deferrals .....4

## Qualified Paid Leave Credit .....5-6

This section also briefly explains the small business exemption for employers with fewer than 50 employees.

## Claiming the Qualified Paid Sick and Family Tax Credits .....7

Note the small business exemption for employers with fewer than 50 employees.

## Resource Links .....8

## Employee Leave Request Form: Paid Sick and Family Leave .....9

**Note:** This guide assumes awareness of the Paycheck Protection Program (PPP), which is a federally funded lending program contained within the CARES Act. For information specific to PPP, or any of the information contained within this guide, please speak with a Boyer & Ritter professional: Visit our COVID-19 News and Resource Center or contact a member of our COVID-19 task force at: <https://www.cpabr.com/>

# Employee Retention Credit

## Coronavirus Aid, Relief and Economic Security Act (CARES Act)

### Employee Retention Credit (Not available if you received a PPP loan)

- If eligible, provides a refundable tax credit of 50% up to \$10,000 in wages paid
  - Includes group health insurance costs
  - Wages paid after March 12, 2020 and before January 1, 2021 are eligible for the credit.
- Available for all employer sizes including tax-exempt organizations
  - Does not include state and local governments
- Employers are eligible for the credit if they operate a trade or business during calendar year 2020 and experience either:
  1. The full or partial suspension of the operation of their trade or business during any calendar quarter because of governmental orders limiting commerce, travel, or group meetings due to COVID-19, or
  2. A significant decline in gross receipts
    - The significant decline in gross receipts **begins** on the first day of the first calendar quarter of 2020 for which an employer's gross receipts are less than 50% of its gross receipts for the same calendar quarter in 2019
    - The significant decline in gross receipts **ends** on the first day of the first calendar quarter following the calendar quarter in which gross receipts are more than of 80% of its gross receipts for the same calendar quarter in 2019
- **Employers with fewer than 100 employees:** If the employer had 100 or fewer employees during 2019, the credit is based on wages and health care costs (up to \$10,000) paid to all employees, regardless of whether they worked
- **Employers with more than 100 employees:** If the employer had more than 100 employees in 2019, then the credit is allowed only for wages paid to employees who did not work during the calendar quarter

Want more information? See seventeen FAQs published by the IRS at:  
<https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act>

# Claiming the Employee Retention Credit

## How to claim the Employee Retention Credit

1. The credit will be claimed on the quarterly payroll tax return (Form 941) for the second quarter (period of April 1 through June 30) which is filed by July 31, 2020.
2. Eligible employers will report their total qualified wages and the related health insurance costs for each quarter
  - The credit is taken against the employer's share of social security tax, with the excess refundable under normal procedures
  - Note: the credit can be taken for eligible wages for March 13 – March 31. Even though March wages are reported on the first quarter Form 941, the credit on the second quarter Form 941 will account for the eligible March wages.
3. Do you need an advance on this credit? Use Form 7200 to access additional funds.
4. Employers can retain a corresponding amount of the employment taxes that otherwise would have been deposited, without penalty. This includes:
  - Federal income tax withholding,
  - Employees' share of Social Security and Medicare taxes,
  - Employer's share of Social Security and Medicare taxes.
  - Reduction for paid sick and family leave credit (See explanation of the paid sick and family leave credit on page 5.)

## Impact of other credit and relief provisions

An eligible employer's ability to claim the Employee Retention Credit is impacted by other credit and relief provisions:

- Wages for this credit do not include wages for which the employer received a tax credit for paid sick and family leave under the Families First Coronavirus Response Act
- Wages counted for this credit cannot be counted for the credit for paid family and medical leave under section 45S of the Internal Revenue Code
- Employees are not counted for this credit if the employer is allowed a Work Opportunity Tax Credit under section 51 of the Internal Revenue Code for the employee

# Filing Form 7200 & Payroll Tax Deferrals

## Form 7200

1. This form is the mechanism to request an advance payment of the employee retention credit and the tax credit for qualified sick and family leave wages.
  - Therefore, this is not a required form; rather, it is how to access funds in excess of the reduced payroll tax deposits or instead of waiting for a refund upon filing the quarterly payroll tax return due one month after the respective quarter-end.
  - Form 7200 is a brand new one-page document which briefly details respective payroll and reconciles the advance of monies requested with the applicable credits.
2. Filing Form 7200
  - Before filing Form 7200, **first** reduce your payroll tax deposits to account for the credits.
  - On the form, in Part 11, reconcile any advance credit payments and reduced deposits from your employment tax return(s) filed for 2020.
  - Note Form 7200 can be filed multiple times during each quarter as needed.
  - The completed form is faxed and not mailed.
3. A paid preparer can file this form on behalf of an employer; *please consult your tax professional in order to do so.*

Downloadable PDF of Form 7200: <https://www.irs.gov/pub/irs-pdf/f7200.pdf>

## Employer Social Security Tax Deferrals (Not available if you received a PPP loan)

- Allows employers to defer all payments of the employer portion of Social Security taxes or 6.2% of wages paid from March 12, 2020 to January 1, 2021
  - First 50% of deferred taxes are due by December 31, 2021
  - Second 50% of deferred taxes are due by December 31, 2022
- Deferral is not applicable if the taxpayer has had indebtedness forgiveness under the Paycheck Protection Program
- If taxes subject to deferral are timely deposited by the December 2021 and 2022 dates above, these taxes will be treated as timely deposits and thereby avoid timeliness penalties



# Qualified Paid Leave Credit

## Families First Coronavirus Response Act

### Qualified Paid Sick Leave Credit

- Cover employees who are unable to work due to COVID-19
  - Required for employers with fewer than 500 employees
    - Employers with fewer than 50 employees may be exempt at the discretion of the US DOL when such requirements would jeopardize the viability of the business as a going concern
  - Provides up to 80 hours of paid sick time through 12/31/2020
- For **leave reasons** (1), (2), or (3) below: employees taking leave shall be paid at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 over the 2-week period
  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
- For **leave reasons** (4), (5) or (6) below: employees taking leave shall be paid at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 over the 2-week period
  4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
  5. is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
  6. is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury

### Qualified Family Leave Credit

- Covers employees who are unable to work due to COVID-19
  - Specific to care for a child under age 18
  - Required for employers with fewer than 500 employees
    - Employers with fewer than 50 employees may be exempt at the discretion of the US DOL when such requirements would jeopardize the viability of the business as a going concern
  - Provides emergency leave under the Family and Medical Leave Act
- This credit is equal to 2/3 of the employee's regular pay, capped at \$200 per day (or \$10,000) over the 10-week period. Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period

# Small Business Exemption

1. For employers with less than 50 employees, a small business exemption exists.
2. This exemption excludes a business from certain provision(s) of the Emergency Paid Sick Leave Act and Emergency Family and Medical Leave Expansion Act.
3. This exemption is for paid sick leave or expanded family and medical leave for reason (5) listed on page 5. *There is no exemption from providing leave for reasons other than (5).*
4. The exemption is a matter of documentation by the employer. There is no application or information to submit to federal authority.
5. An authorized officer of the business should document the determination of one of the following conditions would jeopardize the viability of the business as a going concern:
  - Providing paid sick leave or expanded family and medical leave would result in expenses and financial obligations exceeding business revenues and cause the business to cease operating at a minimal capacity.
  - Absence of the employee(s) requesting paid sick leave or expanded family and medical leave entails a substantial risk the financial health or operational capabilities of the business because of specialized skills, business knowledge or responsibilities.
  - Lack of sufficient workers able/willing/qualified and available at time and place needed to perform labor/services by the respective employee(s) requesting paid sick leave or expanded family and medical leave, AND these labor/services are needed for the business to operate at minimal capacity

In addition, document headcount is fewer than 50 employees and that leave is requested for reason (5).

6. Despite exemption from reason (5), be sure to post notice of FFCRA. Non-federal employee rights under FFCRA may be downloaded at [https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA\\_Poster\\_WH1422\\_Non-Federal.pdf](https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf)

# Claiming the Qualified Paid Sick and Family Tax Credits

- Eligible employers that pay qualifying sick or child care leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and child care leave that they paid, rather than deposit them with the IRS
- The payroll taxes that may not be remitted include: withheld federal income taxes, the employee share of Social Security and Medicare taxes, and the employer share of Social Security and Medicare taxes with respect to all employees

The eligible employer can file Form 7200 to request an advance payment from the IRS if the federal employment taxes are not sufficient to cover the eligible employer's cost of qualified leave wages, health plan expenses and Medicare tax.

If the eligible employer files the Form 7200, it will need to reconcile this advance credit and its deposits with the qualified leave wages on Form 941.

See Page 9 of this guide for digital Employee Leave Request Form under Paid Sick Leave and Paid Family Leave Acts

**Link to Frequently Asked Questions about these credits:**

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>



**Employee Retention Credit:** *IRS Instruction Sheet*

- <https://www.irs.gov/newsroom/irs-employee-retention-credit-available-for-many-businesses-financially-impacted-by-covid-19>

**Employee Retention Credit:** *Frequently Asked Questions*

- <https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act>

**ADP:** *FFCRA Workplace Impact and Employer Frequently Asked Questions*

- <https://www.adp.com/spark/articles/2020/03/covid-19-workplace-impact-and-employer-faqs-the-families-first-coronavirus-response-act.aspx#>

**FFCRA - Emergency Paid Sick and Family and Medical Leave Acts:** *Frequently Asked Questions*

- <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

**U.S. DOL:** *Announces New Paid Sick Leave and Expanded Family and Medical Leave Implementation*

- <https://www.dol.gov/newsroom/releases/whd/whd20200401>

**Form 7200:** *Advance Payment of Employers Credits Due to COVID-19*

- <https://www.irs.gov/pub/irs-pdf/f7200.pdf>

Additional links and resources are available on our website. Visit the Boyer & Ritter COVID-19 News and Resource Center or contact a member of our COVID-19 task force at: <https://www.cpabr.com/>

**FAMILIES FIRST CORONAVIRUS RESPONSE ACT**  
**EMPLOYEE LEAVE REQUEST FORM: 4/1/20-12/31/20**

Employee: \_\_\_\_\_

Date: \_\_\_\_\_

**EPSLA - EMERGENCY PAID SICK LEAVE ACT**

**All Full-time Employees are eligible for up to two (2) weeks Paid Sick Leave for specified reasons related to COVID-19.** Part-time Employees are eligible for the # of Hours of leave that they work on Average over a 52 week period for reasons (1)-(4) and (6). For reason (5), Part-time Employees are eligible for leave for the # of hours the employee is normally scheduled to work over that period.

Reason for Leave (Documentation is Required)	Enter start date in "reason" row	Definition of Pay Rate
1. Employee is subject to a Legal Quarantine by Federal, State, or Local Govt. order related to COVID-19. - <b>This does NOT include a State's "Stay Home" order.</b>		FFCRA paid 100% rate for up to two (2) weeks of hours as defined above (max \$511 per day, capped at \$5,110)*
2. Employee has been advised by a healthcare provider to self-quarantine related to COVID-19.		
3. Employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis.		
4. Employee is caring for an individual who is subject to a Federal, State, or Local quarantine order related to COVID-19.		FFCRA paid 2/3 rate for up to two (2) weeks of hours as defined above. (max \$200 per day, capped at \$2,000)
5. Employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19. Telework is NOT available.		
6. Employee is experiencing other substantially-similar condition specified by the Secretary of Health & Human Services.		
ADDITIONAL QUESTION for reasons 4, 5 and 6: I would like to substitute accrued, unused time to supplement my pay. Please check if YES.		You are entitled to supplement your Paid Sick Leave (child care) with earned/unused time banks. Sick/Personal will be used first.

**EFMLA - EMERGENCY FAMILY MEDICAL LEAVE**

**Employees employed for at least 30 days are eligible for up to 12\* Weeks of Partially Paid Family Leave to care for a child under certain circumstances related to COVID-19.**

**\*Previously used FMLA in the last rolling 12-month period is subtracted from availability of EFMLA.**

Reason for Leave (Documentation is Required)	Select Yes if applicable	Definition of Pay Rate
Employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.		First 2 weeks (10 days) are Unpaid, unless employee requests to use Emergency Paid Sick Leave above (paid at 2/3 regular rate of pay)
I would like to substitute accrued, unused time to supplement my pay. Please enter YES or NO.		You are entitled to supplement your Paid Sick Leave (child care) with earned/unused time banks. Sick/Personal will be used first.

**Documentation for my requested leave is attached. I certify that I meet the criteria as listed for eligibility for the leave requested above. I understand that false representation may lead to disciplinary action, up to and including termination of employment.**

Employee Signature 9A D@CM99 GHCD < 9F 9

Date \_\_\_\_\_

Approval Signature \_\_\_\_\_

Date \_\_\_\_\_

**FAMILIES FIRST CORONAVIRUS RESPONSE ACT**  
**EMPLOYEE LEAVE REQUEST FORM: 4/1/20-12/31/20**

**Employee:**

Date:

Received Date:

Reviewed Date:

Telework available: Yes

No

Documentation attached:

Approval Date:

Denial Date:

Denial Reason:

Date Started:

Date Ended:

Payroll documentation attached