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- LAW -

## IRS Publishes FAQ for Families First-Related Tax Credits

The Families First Coronavirus Response Act (FFCRA) has been in effect for more than two weeks, with eligible employees able to receive paid leave under the emergency sick leave and emergency family and medical leave provisions of the Act.

### How Should an Employer Substantiate Eligibility for Tax Credits for Qualified Leave Wages?

- > 44. What information should an Eligible Employer receive from an employee and maintain to substantiate eligibility for the sick leave or family leave credits?
- > 45. What additional records should an Eligible Employer maintain to substantiate eligibility for the sick leave or family leave credit?
- > 46. How long should an Eligible Employer maintain records to substantiate eligibility for the sick leave or family leave credit?

The IRS has now issued guidance on the records that employers must have in order to qualify for the payroll tax credits that will offset their expenses in paying for that leave. Specifically, the IRS has identified both (1) what an employee's written request for leave must contain and (2) the additional documents that an employer must provide to substantiate the amounts advanced for such leave.

**The specific requirements can be found here.** These records should be kept for four years from the later of the tax becoming due or being paid.

## DOL Issues Guidance regarding Paid Sick and Family Leave

DOL has joined the IRS in publishing specific guidance to promote compliance with the FFCRA.

In addition to issuing a temporary rule, **the Department has also posted a lengthy Q&A that addresses a wide array of situations that employers and employees may encounter.** Highlights include a broadening of who qualifies for the "health care provider" exemption and an exclusion of furloughed employees from eligibility for leave.

# EMPLOYEE RIGHTS

## PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

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.

**PAID LEAVE ENTITLEMENTS**  
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;
- ⅔ 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 ⅓ 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.

**ELIGIBLE EMPLOYEES**  
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.

**QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19**  
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;	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
2. has been advised by a health care provider to self-quarantine related to COVID-19;	6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.
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);	

**ENFORCEMENT**  
The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.


**WAGE AND HOUR DIVISION**  
 UNITED STATES DEPARTMENT OF LABOR

For additional information or to file a complaint:  
**1-866-487-9243**  
 TTY: 1-877-889-5627  
[dol.gov/agencies/whd](http://dol.gov/agencies/whd)



WH042 REV 9/2020

If you have questions about navigating an employee's request for leave under the FFCRA, **contact Hunter or Steven to discuss the law's applicability to your business.**

Last, but not least, employers must post the FFCRA-specific poster in their workplaces and ensure that all employees receive notice of their rights. You can access the poster by clicking the photo to the left.

## COVID-19 Potpourri: Assorted Updates for Employers

With government agencies issuing updates and new guidance on a seemingly daily basis, the amount of information that employers must process can be overwhelming. The links below provide an assortment of bite-sized information to help your business navigate the evolving landscape.



- [OSHA provides guidance on when employers need to record COVID-19 cases as occupational illnesses;](#)
- [SBA announces that EIDL advance will now only provide \\$1k/employee, up to \\$10k;](#)
- [Governor Northam extends requirement for closure of certain non-essential businesses through May 8;](#) and
- [The Danville Pittsylvania County Chamber maintains an updated list of COVID-19 resources, including additional items \(including recordings of our prior webinars\) for members only.](#)

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