


SABA WEBINAR SERIES: FFCRA GUIDANCE (AS OF APRIL 1, 2020)



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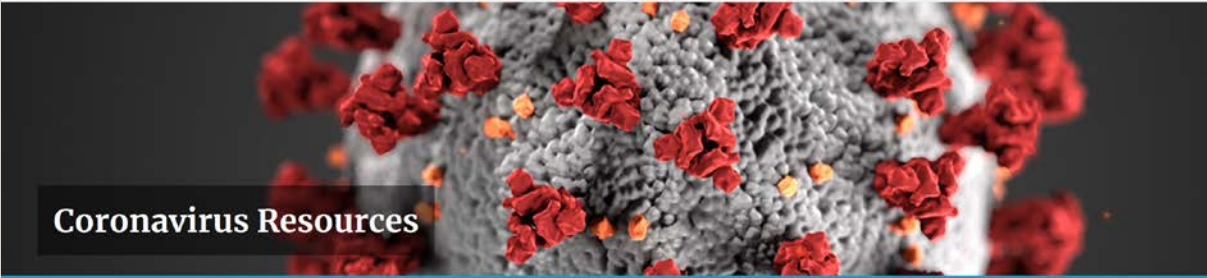
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 U.S. DEPARTMENT OF LABOR

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Coronavirus Resources

The U.S. Department of Labor has resources to help workers and employers prepare for the COVID-19 virus (also known as novel coronavirus).

Workplace Safety


The Occupational Safety and Health Administration (OSHA) has resources to help employers and workers prepare for and respond to coronavirus in the workplace.

- [OSHA Guidance on Preparing Workplaces for COVID-19](#) – Developed in collaboration with the U.S. Department of Health and Human Services to help employers respond in the event of coronavirus in the workplace.
- [Temporary OSHA Guidance on Respiratory Protection Standard](#) – This guidance provides suggestions and options to help increase the availability of N95 filtering facepiece respirators for healthcare providers.
- [COVID-19 Webpage](#) – Provides infection prevention information specifically for employers and workers.

<https://www.dol.gov/coronavirus>


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COVID-19-Related Tax Credits for Required Paid Leave Provided by Small and Midsize Businesses FAQs

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The Families First Coronavirus Response Act (the "FFCRA"), signed by President Trump on March 18, 2020, provides small and midsize employers refundable tax credits that reimburse them, dollar-for-dollar, for the cost of providing paid sick and family leave wages to their employees for leave related to COVID-19.

The FFCRA gives businesses with fewer than 500 employees (referred to throughout these FAQs as "Eligible Employers") funds to provide employees with paid sick and family and medical leave for reasons related to COVID-19, either for the employee's own health needs or to care for family members. Workers may receive up to 80 hours of paid sick leave for their own health needs or to care for others and up to an additional ten weeks of paid family leave to care for a child whose school or place of care is closed or child care provider is closed or unavailable due to COVID-19 precautions. The FFCRA covers the costs of this paid leave by providing small businesses with refundable tax credits. Certain self-employed individuals in similar circumstances are entitled to similar credits.

For a more detailed overview of the law, see "Overview of COVID-19-Related Tax Credits for Small and Midsize Businesses," below.

For FAQs, see "[Basic FAQs](#)," and the sections that follow. The FAQs will be updated to address changes in the law or additional questions as they are raised.

https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs#how_to_claim

IRS FAQs TEXT WITH EMBEDDED LINKS PDF ...



COVID-19-Related Tax Credits for Required Paid Leave Provided by Small and Midsize Businesses FAQs¹

The Families First Coronavirus Response Act (the "FFCRA"), signed by President Trump on March 18, 2020, provides small and midsize employers refundable tax credits that reimburse them, dollar-for-dollar, for the cost of providing paid sick and family leave wages to their employees for leave related to COVID-19.

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For a more detailed overview of the law, see "Overview of COVID-19-Related Tax Credits for Small and Midsize Businesses," below.

For FAQs, see "[Basic FAQs](#)," and the sections that follow. The FAQs will be updated to address changes in the law or additional questions as they are raised.

Overview of COVID-19-Related Tax Credits for Small and Midsize Businesses

The FFCRA requires employers to provide paid leave through two separate provisions: (i) the Emergency Paid Sick Leave Act (EPSLA), which entitles workers to up to 80 hours of paid sick time when they are unable to work for certain reasons related to COVID-19, and (ii) the Emergency Family and Medical Leave Expansion Act (Expanded FMLA), which entitles workers to certain paid family and medical leave. The FFCRA provides that employers subject to the EPSLA and the Expanded FMLA paid leave requirements are entitled to fully refundable tax credits to cover the cost of the leave required to be paid for these periods of time during which employees are unable to work (which for purposes of these rules, includes telework). Certain self-employed persons in similar circumstances are entitled to similar credits.

The following section provides an overview of FFCRA's refundable tax credit provisions, and the FAQs that follow provide more detailed information regarding the requirements, limitations, and application of the paid leave credits. The Wage and Hour Division of the Department of

¹ Accessed by David Evans, Attorney & Counselor at Law, April 1, 2020 at 11:09 a.m.

IRS FAQs KEY TAKEAWAYS ...

2. When can employers start claiming the credits?

Eligible Employers may claim tax credits for qualified leave wages paid to employees on leave due to paid sick leave or expanded family and medical leave for reasons related to COVID-19 for leave taken beginning on April 1, 2020, and ending on December 31, 2020.

Eligible Employers will claim the credits on their federal employment tax returns (e.g., Form 941, Employer's Quarterly Federal Tax Return), but they can benefit more quickly from the credits by reducing their federal employment tax deposits. If there are insufficient federal employment taxes to cover the amount of the credits, an Eligible Employer may request an advance payment of the credits from the IRS by submitting a [Form 7200, Advance Payment of Employer Credits Due to COVID-19](#). The IRS expects to begin processing these requests during April 2020.

IRS FAQs KEY TAKEAWAYS ...

18. May an Eligible Employer receive both the tax credits for qualified leave wages under the FFCRA and the Employee Retention Credit under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)?

Yes, if an Eligible Employer also meets the requirements for the employee retention credit, it may receive both credits, but not for the same wage payments.

Section 2301 of the CARES Act allows certain employers subject to a full or partial closure order due to COVID-19 or experiencing a significant decline in gross receipts a tax credit for retaining their employees. This employee retention credit is equal to 50% of qualified wages (including allocable qualified health plan expenses) paid to employees after March 12, 2020, and before January 1, 2021, up to \$10,000 in qualified wages for each employee for all calendar quarters. However, the qualified wages for the employee retention credit do not include the amount of qualified leave wages for which the employer received tax credits under the FFCRA.

Note: The IRS expects to issue Frequently Asked Questions on the employee retention credit under the CARES Act during April 2020.

IRS FAQs KEY TAKEAWAYS ...

60. Who is an eligible self-employed individual for purposes of the qualified sick leave credit and the qualified family leave credit?

An eligible self-employed individual is defined as an individual who regularly carries on any trade or business within the meaning of section 1402 of the Code, and would be entitled to receive qualified sick leave wages or qualified family leave wages under the FFCRA if the individual were an employee of an Eligible Employer (other than himself or herself) that is subject to the requirements of the FFCRA.

Eligible self-employed individuals are allowed an income tax credit to offset their federal self-employment tax for any taxable year equal to their “qualified sick leave equivalent amount” or “qualified family leave equivalent amount.”

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Families First Coronavirus Response Act: Questions and Answers¹

As provided under the legislation, the U.S. Department of Labor will be issuing implementing regulations. Additionally, as warranted, the Department will continue to provide compliance assistance to employers and employees on their responsibilities and rights under the FFCRA.

DEFINITIONS

“Paid sick leave” – means paid leave under the Emergency Paid Sick Leave Act.

“Expanded family and medical leave” – means paid leave under the Emergency Family and Medical Leave Expansion Act.

QUESTIONS & ANSWERS

1. What is the effective date of the Families First Coronavirus Response Act (FFCRA), which includes the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act?

The FFCRA’s paid leave provisions are effective on April 1, 2020, and apply to leave taken between April 1, 2020, and December 31, 2020.

2. As an employer, how do I know if my business is under the 500-employee threshold and therefore must provide paid sick leave or expanded family and medical leave?

You have fewer than 500 employees if, at the time your employee’s leave is to be taken, you employ fewer than 500 full-time and part-time employees within the United States, which includes any State of the United States, the District of Columbia, or any Territory or possession of the United States. In making this determination, you should include employees on leave; temporary employees who are jointly employed by you and another employer (regardless of whether the [jointly-employed employees](#) are maintained on only your or another employer’s payroll); and day laborers supplied by a temporary agency (regardless of whether you are the temporary agency or the client firm if there is a continuing employment relationship). Workers who are independent contractors under the Fair Labor Standards Act (FLSA), rather than [employees](#), are not considered employees for purposes of the 500-employee threshold.

Typically, a corporation (including its separate establishments or divisions) is considered to be a single employer and its employees must each be counted towards the 500-employee threshold. Where a corporation has an ownership interest in another

¹ Accessed by David Evans, Attorney & Counselor at Law, April 1, 2020 at 12:57 p.m.

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THE END ...

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AND A LINK TO THIS PRESENTATION ...

