

FFCRA and CARES Act: Updates and iSolved Features Webinar Attendee Submitted Questions

Will the FFCRA Tax Credits be applied on a payroll basis or with the quarterly tax returns?

The FFCRA Tax Credits works with the earnings type COVID-19 Sick, COVID-19 Family Sick, and COVID-19 FMLA and the memo for reporting employer portion of employee healthcare, Qualified Health Plan Expense Sick and FMLA. These items are reported with payroll and the credit will be reflected on the Payroll Summary report.

We laid off seven part-time employees on March 17. If we bring them back on or before June 30, would we still be eligible for 100% loan forgiveness?

For the PPP Loan forgiveness, the measurement is based on payroll costs paid during an 8-week period before June 30, 2020. Forgiveness is based on using at least 75% of the loan proceeds to cover payroll costs along with bringing back any furloughed/laid off employees and paying at least 75% of the wages you were paying before the crisis. In order to qualify for loan forgiveness furloughed employees must be back on payroll by June 30, 2020

If we are applying for a loan and will continue to pay everyone their normal salary must we use another payroll code or continue as before?

There is no requirement to use a separate payroll earnings code. Our recommendation is that you set up a separate bank account for PPP loan proceeds and simply transfer the amounts used to cover payroll costs, rent, utilities or mortgage interest into your operating account. That will show clearly that you used the loan proceeds for the permitted expenses as you can match the amounts transferred to invoices/payroll summaries.

Is the Retention Tax/Social Security Credit separate from the FFCRA credits?

Yes, the **Employee Retention Credit** is a fully refundable tax credit for employers equal to 50 percent of qualified wages (including allocable qualified health plan expenses) that Eligible Employers pay their employees. This Employee Retention Credit applies to qualified wages paid after March 12, 2020, and before January 1, 2021. The maximum amount of qualified wages taken into account with respect to each employee for all calendar quarters is \$10,000, so that the maximum credit for an Eligible Employer for qualified wages paid to any employee is \$5,000.

The **Families First Coronavirus Relief Act (FFCRA)** requires certain employers to pay sick or family leave wages to employees who are unable to work or telework due to certain circumstances related to COVID-19. Employers are entitled to a refundable tax credit for the required leave paid, up to specified limits.

The amount of qualified wages for which an Eligible Employer may claim the Employee Retention Credit does not include the amount of qualified sick and family leave wages for which the employer received tax credits under the FFCRA.

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

I heard that companies will not have to pay federal payroll taxes as part of the stimulus package. Is this true?

You may take a credit against your tax liabilities only if you pay FFCRA qualified wages i.e. Sick or Family Leave. Or, if you take advantage of the Employee Retention Credit offered by the CARES Act. If you have applied for a PPP Loan, you will not be able to take advantage of tax credits for the same wages.

What 12-month period do you use or should you use to calculate the average monthly payroll amount? Some banks use a calendar year and others use the period of April 1, 2019 to March 30, 2020.

Calendar year 2019 has been designated in guidance from SBA/Treasury, but many banks have used other trailing twelve-month periods. SBA/Treasury will accept either.

On the back end to determine the amount of the PPP loan which is forgivable, can we use any 8 weeks during the prescribed February - June? Will Proxus help its clients figure out what is the most advantageous 8-week period to use for these purposes?

Based on the guidance from SBA/Treasury, you have to use 75% or more of the PPP loan proceeds for Payroll Costs and have your Full Time Equivalent employee count at the level it was prior to obtaining the loan and pay at least 75% or more of the wages you were paying (if you reduced hourly rates/salaries to conserve cash) to get 100% loan forgiveness. The iSolved system contains reports you can run over a date range that can be used to capture the highest amount of Payroll Costs to meet that 75% of loan proceeds threshold. We will have more information once we determine which reports are the best to use.

With the \$600 extra being added, would an employee who has a Weekly Benefit Amount of \$157.00 now be getting \$757.00?

The Federal Pandemic Unemployment Compensation component of CARES does provide for an additional \$600.00/week on top of any amount an individual would be entitled to under state law. Yes, in this example the person would get \$757.00/week. However, the additional \$600.00 is paid on benefit weeks between April 5, 2020 and July 31, 2020.

To calculate the average number of hours worked for a part-time employee in order to pay them under the PPP, what time period should we look at: 6 months, 1 year or ?

We're still waiting for guidance regarding the payroll costs/expenses to be used in calculating the amount of forgiveness for PPP Loans, including the measurements of the 75% thresholds. According to the IRS FAQ's released on April 6, 2020:

In general, borrowers can calculate their aggregate payroll costs using data either from the previous 12 months or from calendar year 2019. For seasonal businesses, the applicant may use average monthly payroll for the period between February 15, 2019, or March 1, 2019, and June 30, 2019. An applicant that was not in business from February 15, 2019 to June 30, 2019 may use the average monthly payroll costs for the period January 1, 2020 through February 29, 2020.

Borrowers may use their average employment over the same time periods to determine their number of employees, for the purposes of applying an employee-based size standard. Alternatively, borrowers may elect to

use SBA's usual calculation: the average number of employees per pay period in the 12 completed calendar months prior to the date of the loan application (or the average number of employees for each of the pay periods that the business has been operational, if it has not been operational for 12 months).

Please also note the following from the IRS FAQ's released on April 6, 2020, regarding Seasonal Employees:

In evaluating a borrower's eligibility, a lender may consider whether a seasonal borrower was in operation on February 15, 2020 or for an 8-week period between February 15, 2019 and June 30, 2019.

Can you expand on Philadelphia City Wage Tax for those whose business is located in Philadelphia but are working remotely in the suburbs. Would you recommend blocking city tax while employees are working remotely?

“Non-resident employees based in Philadelphia are not subject to Philadelphia Wage Tax during the time they have been ordered to work outside of Philadelphia.”

Here's a link to the Notice from the City of Philadelphia (Wage Tax Policy guidance for non-resident employees):

<https://www.phila.gov/media/20200326113032/2020-Wage-Tax-guidance-coronavirus-032620.pdf>

For the time that the employee is working from home, be sure to enter the employee's time in iSolved as “EXEMPT” from Philadelphia City Wage Tax.

Provided that we do not "double-dip" can we use PPP and the reimbursement for EEFMLA? If we exclude the wages paid from EEFMLA from the PPP loan calcs, are we good?

Yes. However, if an Eligible Employer receives tax credits for qualified leave wages, those wages are not eligible as “payroll costs” for purposes of receiving loan forgiveness under section 1106 of the CARES Act. IRS FAQ#19 at:

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

Can an employer apply for the protection program AND have employees apply for unemployment? If not, what would be better for the company?

Yes, you can do both but to get loan forgiveness, you have to bring employees back to meet that condition of the forgiveness provisions. Again, it is a business decision and you have to weigh the risks of losing that connection to employees vs. avoiding the process of applying for PPP loans and accurately recording the uses of the loan proceeds for forgiveness purposes.

We have many employees who are divorced. How does the FMLA apply? If we know that the employee does not have primary custody, are they still eligible for the FMLA?

An employee may take paid sick leave to care for his or her child only when the employee needs to, and actually is, caring for his or her child. Generally, an employee does not need to take such leave if another suitable individual— such as a co-parent, co-guardian, or the usual childcare provider—is available to provide the care the employee's child needs.

An employee must provide his or her employer documentation in support of paid sick leave or expanded family and medical leave. As provided in § 826.100, such documentation must include a signed statement containing the following information: (1) the employee's name; (2) the date(s) for which leave is requested; (3) the COVID-19 qualifying reason for leave; and (4) a statement representing that the employee is unable to work or telework because of the COVID-19 qualifying reason.

For expanded family and medical leave to care for his or her child, the employee must also provide the following information: (1) the name of the child being care for; (2) the name of the school, place of care, or child care provider that closed or became unavailable due to COVID-19 reasons; and (3) a statement representing that no other suitable person is available to care for the child during the period of requested leave.

This information is for educational purposes only and should NOT be considered legal advice. If you have additional questions, please email COVID-19@proxushr.com.