

# Understanding the Employer Payroll Tax Credits under FFCRA

by Elizabeth G. Roetker - Tuesday, March 31, 2020



On March 20, 2020, the U.S. Treasury Department, Internal Revenue Service, and U.S. Department of Labor announced guidance for the implementation of tax credits made available to small and midsize businesses through the Families First Coronavirus Response Act (“FFCRA”).

FFCRA requires employers to provide paid sick leave, and expanded family and medical leave for employees affected by COVID-19. Recognizing the significant economic to employers, FFCRA allows eligible employers to recoup the added expense of providing leave through two payroll-tax credits. For purposes of this relief, “eligible employers” are those with fewer than 500 employees. Eligible employers will be able to claim these tax credits between April 1, 2020, and December 31, 2020.

## Credit for Paid-Sick Leave

First, FFCRA provides eligible employers with a refundable sick leave credit for sick leave for employees who are unable to work and (1) have COVID-19 symptoms, (2) are in COVID-19 quarantine, (3) are caring for someone with COVID-19, or (4) are caring for a child because the child’s school or care provider is closed or unavailable due to COVID-19.

For employees who have symptoms or are in quarantine for COVID-19, eligible employers may receive a credit at the employee’s regular pay rate, up to \$511 per day for a maximum of 10 days. For employees who are caring for someone with COVID-19 or a child, eligible employers may receive a credit at two-thirds of the employee’s regular pay rate, up to \$200 per day for a maximum of 10 days.

## Credit for Child-Care Leave

FFCRA also provides eligible employers with a refundable child care leave credit for employees who are unable to work and are caring for a child because the child's school or care provider is closed or unavailable due to COVID-19. Eligible employers may receive a credit at two-thirds of an employee's regular pay, up to \$200 per day, or \$10,000 in aggregate. Eligible employers can count up to 10 weeks of qualifying leave towards this credit. FFCRA provides an additional credit related to its costs for maintaining health insurance during the leave period.

## How It Works

Employers must withhold federal income taxes and the employees' share of Social Security and Medicare taxes from employees' pay. Throughout the year, typically each quarter, employers deposit these taxes, as well as their share of Social Security and Medicare taxes (collectively, "payroll taxes"), and file payroll tax returns (IRS Form 941) with the IRS.

Guidance indicates that eligible employers may retain an amount of payroll taxes equal to the amount of paid qualifying sick and child care leave—instead of depositing the amount with the IRS. In addition, the tax credits are "refundable." That means, if an eligible employer does not have sufficient payroll taxes to cover the cost of qualified sick and child leave, the eligible employer may file a request for an accelerated payment from the IRS.

A news release from the IRS sets forth the following examples of employer payroll tax retention:

If an eligible employer paid \$5,000 in sick leave and is otherwise required to deposit \$8,000 in payroll taxes, including taxes withheld from all its employees, the employer could use up to \$5,000 of the \$8,000 of taxes it was going to deposit for making qualified leave payments. The employer would only be required under the law to deposit the remaining \$3,000 on its next regular deposit date.

If an eligible employer paid \$10,000 in sick leave and was required to deposit \$8,000 in taxes, the employer could use the entire \$8,000 of taxes in order to make qualified leave payments and file a request for an accelerated credit for the remaining \$2,000.

FFCRA makes equivalent credits available to self-employed individuals. These individuals may claim the credits on their income tax return.

## Bottom Line

FFCRA places additional financial burdens on employers during a time already rife with economic uncertainty. Luckily, FFCRA also provides several opportunities for employers to lessen the financial impact of the paid leave requirements under FFCRA.

*For all of the latest critical COVID-19 information for employers, check our continually updated FAQ's by clicking on the banner headline at the top of the [Felhaber Larson web page](#).*

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