



FFCRA Tax Credits & Other Business Provisions

Paid Sick Leave

Among the paid-leave requirements under the FFCRA:

- Eligible employers must provide two weeks (up to 80 hours) of paid sick leave at 100 percent of an employee's pay—up to a maximum of \$511 per day, or \$5,110 total over the two-week period—if the employee is unable to work because he or she is quarantined or experiencing symptoms associated with COVID-19 and seeking a medical diagnosis. A part-time employee is entitled to leave for his or her average number of work hours in a two-week period.
- Eligible employers must provide two weeks (up to 80 hours) of paid sick leave at two-thirds of an employee's pay—up to a maximum of \$200 per day, or \$2,000 over the two-week period—if he or she is unable to work because of a need to care for someone subject to quarantine, if he or she must be absent to care for a child whose school is closed or whose child care provider is unavailable for reasons related to COVID-19, or if the employee is experiencing substantially similar conditions as specified by the U.S. Department of Health and Human Services.
- In certain circumstances, employees who are unable to work because of a need to care for a child whose school is closed or whose child care provider is unavailable may receive up to an additional 10 weeks of paid leave at two-thirds of the employee's pay. However, employees will not receive more than \$200 per day or \$12,000 for the 12 weeks that include both paid sick leave and expanded family and medical leave, under these circumstances.

Employers are eligible for an exemption from the requirements to provide leave to care for a child whose school is closed or for whom child care is unavailable if the viability of the business would be threatened by doing so.

The IRS gave these examples of how the new guidance would work:

- If an eligible employer pays \$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 pays \$10,000 in sick leave and is otherwise 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 could file a request for an accelerated credit for the remaining \$2,000.

Employee Retention Credit

Employers are provided a refundable payroll tax credit for 50% of wages paid to employees during the COVID-19 crisis. The credit is available to employers whose:

- Operations were fully or partially suspended due to a COVID-19-related shutdown order, or
- Gross receipts declined by more than 50% when compared to the same quarter in the prior year.

The credit is based on qualified wages paid to the employee. For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above. For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order.

The credit is provided for the first \$10,000 of compensation, including health benefits, paid to an eligible employee. The credit is provided for wages paid or incurred from March 13, 2020 through Dec. 31, 2020.

Delay of Payment of Employer Payroll Taxes

Employers and self-employed individuals can defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees.

Employers generally are responsible for paying a 6.2% Social Security tax on employee wages. The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by Dec. 31, 2021 and the other half by Dec. 31, 2022. The Social Security Trust Funds will be held harmless under this provision.

Expansion of Unemployment Benefits

The size and scope of unemployment benefits is expanded under this bill. It includes relief for workers who are self-employed, as well as independent contractors. These changes are temporary.

- Provides \$250 billion to expand unemployment benefits
- Makes sure self-employed and independent contractors, like Uber drivers and gig workers, can receive unemployment during the public health emergency. The bill also includes support to state and local governments and nonprofits so they can pay unemployment to their employees
- Makes benefits more generous by adding a \$600/week across-the-board payment increase through the end of July. In addition, for those who need it, the bill provides an additional 13 weeks of benefits beyond what states typically allow. Unemployment insurance eligibility is expanded to those who are not eligible for regular compensation or extended benefits under state or federal law, or previously passed pandemic emergency unemployment compensation.

To qualify, an individual must self-certify that s/he is otherwise able and available to work but cannot for one of the following reasons:

- Diagnosis of COVID-19 or is experiencing the symptoms and seeking a medical diagnosis
- Member of household has COVID-19

- Individual is providing care for a family member or member of household who has been diagnosed with COVID-19
- Child or other person in household for whom the individual is the primary caregiver is unable to attend school or other facility because of COVID-19 and such attendance is necessary for that individual to attend work
- Individual is unable to reach place of employment because of mandatory quarantine
- Individual has been advised by a medical professional to self-quarantine due to COVID-19 concerns
- Individual was scheduled to start a job and doesn't have a job or unable to reach job due to COVID-19
- Individual has become the primary source of income or major support for household due to head of household dying due to COVID-19
- Individual has quit job as a direct result of COVID-19
- Place of business is closed due to COVID-19
- Individual is self-employed, is seeking part-time employment, doesn't have sufficient work history, or otherwise doesn't qualify for regular unemployment or extended benefits
- This does not include individuals who can telework with pay or who are receiving paid sick leave or other leave benefits due to other provisions in COVID-19 relief.

This assistance is available beginning Jan. 27, 2020 and goes until Dec. 31, 2020 with a 39-week maximum for an individual receiving assistance.

The bill also allows for states to waive their one week waiting period for unemployment benefits and the federal government will reimburse them for that week, thus incentivizing states to provide an immediate benefit.

Small Business Loans

The SBA is providing low-interest working capital loans of up to \$2 million to small businesses and nonprofits affected by the coronavirus. These loans carry an interest rate of 3.75% for small businesses and 2.75% for nonprofits. Loan repayment terms vary by applicant, up to a maximum of 30 years.

As of March 23, businesses in every state plus American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands can apply. the loan can be used to cover accounts payable, debts, payroll and other bills.

These loans can be forgiven. Loan recipients can calculate the amount to be forgiven by calculating the sum total of the following "costs incurred, and payments made" during the 8-week period beginning on the date of the covered loan origination:

- Payroll costs (defined later)
- Interest on mortgage obligation (which shall not include any prepayment of or payment of principal)
- Rent
- Utility payments

The total amount for forgiveness must not exceed the original principal amount. The amount of loan forgiveness can be reduced if the recipient reduces the number of employees or reduces salaries during the 8 weeks following the origination date.

Payroll costs are defined as the sum of all payments for:

- Salaries, wages, commissions, or similar compensation (up to \$100,000 annual compensation as prorated for the covered period)
- Payment of cash tip or equivalent
- Vacation, parental, family medical, or sick leave
- Severance payment
- Health care benefits, including insurance premiums
- Retirement benefits
- State or local tax assessed on said compensation
- Payments of wages, commission, or similar compensation to any independent contractors that is \$100,000 or less per year (as prorated for the covered period).

Payroll costs would not include:

- Federal income tax and payroll tax contributions
- Compensation of any employee whose principal residence is outside the US
- Qualified sick and family leave wages covered by tax credits under the *Families First Coronavirus Response Act*

Eligible small business owners can apply online and select “Economic Injury” as the reason for seeking assistance. Call the SBA Disaster Assistance Customer Service Center at 800.659.2955 for assistance.