



Tax Credits for Paid Leave Under the Families First Coronavirus Response Act for Leave Prior to April 1, 2021

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This Fact Sheet updates frequently asked questions (FAQs) for the Tax Credits for Paid Leave Under the Families First Coronavirus Response Act for Leave Prior to April 1, 2021.

These FAQs additions are as follows:

- New — Tax Credits for Paid Leave Under the Families First Coronavirus Response Act for Leave Prior to April 1, 2021: Special Issues for Employers: Other Issues: Q54g
- New — Tax Credits for Paid Leave Under the Families First Coronavirus Response Act for Leave Prior to April 1, 2021: Specific Provisions Related to Self-Employed Individuals: Q65c

These FAQs are being issued to provide general information to taxpayers and tax professionals as expeditiously as possible. Accordingly, these FAQs may not address any particular taxpayer's specific facts and circumstances, and they may be updated or modified upon further review. Because these FAQs have not been published in the Internal Revenue Bulletin, they will not be relied on or used by the IRS to resolve a case. Similarly, if an FAQ turns out to be an inaccurate statement of the law as applied to a particular taxpayer's case, the law will control the taxpayer's tax liability. Nonetheless, a taxpayer who reasonably and in good faith relies on these FAQs will not be subject to a penalty that provides a reasonable cause standard for relief, including a negligence penalty or other accuracy-related penalty, to the extent that reliance results in an underpayment of tax. Any later updates or modifications to these FAQs will be dated to enable taxpayers to confirm the date on which any changes to the FAQs were made. Additionally, prior versions of these FAQs will be maintained on IRS.gov to ensure that taxpayers, who may have relied on a prior version, can locate that version if they later need to do so.

More information about available. These FAQs were announced in [IR-2022-48](#).

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Background

Note that the American Rescue Plan Act of 2021 (ARP), enacted March 11, 2021, amended and extended the tax credits (and the availability of advance payments of the tax credits) for paid sick and family leave for wages paid with respect to the period beginning April 1, 2021, and ending on September 30, 2021. For information about the tax credits that may be claimed for qualified leave wages under the ARP, see [Tax Credits for Paid Leave Under the American Rescue Plan Act of 2021 for Leave After March 31, 2021](#).

Those who are still eligible to claim the credit, may want to see how the credit has changed since it was originally enacted by the FFCRA. The [Paid Sick and Family Leave Credit – 2020 vs 2021 Comparison Chart](#) addresses changes that were made by the Tax Relief Act of 2020 (the Tax Relief Act) and then further changes made by the American Rescue Plan Act (ARP).



37. How does an Eligible Employer claim the refundable tax credits for qualified leave wages (plus any allocable qualified health plan expenses and the amount of the Eligible Employer's share of Medicare tax)? (Updated January 28, 2021)

Eligible Employers report their total qualified leave wages for each calendar quarter on their federal employment tax returns, usually [Form 941, Employer's Quarterly Federal Tax Return PDF](#). Employers also report any qualified wages for which they are entitled to an Employee Retention Credit under the CARES Act on Form 941. The Form 941 is used to report income and social security and Medicare taxes withheld by the employer from employee wages, as well as the Eligible Employer's share of Social Security and Medicare taxes.

In anticipation of receiving the credit, Eligible Employers can cover the amount of qualified leave wages by (1) accessing federal employment taxes, including withheld taxes that would otherwise be required to be deposited with the IRS, and (2) requesting an advance of the credit from the IRS for the amount of the credit that is not covered by accessing the federal employment tax deposits, by filing [Form 7200, Advance Payment of Employer Credits Due to COVID-19 PDF](#).

Prior to retaining deposits in anticipation of the credit, Eligible Employers are permitted to defer the deposit and payment of the employer's share of social security tax under section 2302 of the CARES Act. For more information, see [Deferral of employment tax deposits and payments through December 31, 2020](#). In addition, employers may opt to defer withholding and payment of the employee's share of social security tax under [Notice 2020-65 PDF](#), as modified by [Notice 2021-11 PDF](#), on certain wages paid between September 1, 2020 through December 31, 2020.

38. Can an Eligible Employer that pays qualified leave wages cover these payments before receiving the credits by reducing its federal employment tax deposits? (Updated January 28, 2021)

An Eligible Employer may cover the qualified leave wages (and allocable qualified health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages) by accessing federal employment taxes, including those that the Eligible Employer already withheld, that are set aside for deposit with the IRS (reduced by any amount of the employer's share of social security tax deferred under section 2302 of the CARES Act or any amount of the employee's share of social security tax that the employer opted to defer under [Notice 2020-65 PDF](#), as modified by [Notice 2021-11 PDF](#)), for all wage payments made during the same quarter as the qualified leave wages.

That is, an Eligible Employer that pays qualified leave wages to its employees in a calendar quarter before it is required to deposit federal employment taxes with the IRS for that quarter may, after deferring the employer's and employee's share of social security tax under section 2302 of the CARES Act and Notice 2020-65, as modified by [Notice 2021-11 PDF](#), respectively, reduce the amount of federal employment taxes it deposits for that quarter by the amount of the qualified leave wages (and allocable qualified health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages) paid in that calendar quarter. The Eligible Employer must account for the reduction in deposits on the [Form 941, Employer's Quarterly Federal Tax Return PDF](#), for the quarter.

Example: In the second quarter of 2020, an Eligible Employer that did not claim the Employee Retention Credit paid \$5,000 in qualified sick leave wages and qualified family leave wages (and allocable health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages) and is otherwise required to deposit \$10,000 in federal employment taxes, including taxes withheld from all of its employees, for wage payments made during the same quarter as the \$5,000 in qualified leave wages was paid. The Eligible Employer defers \$2,000 for its share of social security tax under section 2302 of the CARES Act. The Eligible Employer may keep up to \$5,000 of the remaining \$8,000 of taxes the Eligible Employer was going to deposit, and it will not owe a penalty for keeping the \$5,000. The Eligible Employer is