

IMPORTANT COVID-19 UPDATE

FAQS ISSUED ON FFCRA LEAVE TAX CREDITS

Beginning in April 2020, employers were entitled to payroll tax credits for paid leave required in response to the Coronavirus Disease 2019 (COVID-19) pandemic. The Families First Coronavirus Response Act (FFCRA) required covered employers to provide paid sick and family leave, but this paid leave mandate requirement expired on December 31, 2020. Thereafter, the availability of the leave was continued, but converted to a voluntary leave left to the discretion of the employer. The Consolidated Appropriations Act (CAA), signed into law on December 27, 2020, permitted employers to continue receiving the federal tax credit for voluntarily allowing employees to take unused FFCRA paid sick and family leave through March 31, 2021. The American Rescue Plan Act (ARPA) extended these optional payroll tax credits until September 30, 2021. The IRS has now published a [fact sheet](#) and a [snapshot](#) document explaining the tax credits.

FFCRA Mandatory Paid Leave

The FFCRA required covered employers to provide paid sick and family leave, but this requirement expired on December 31, 2020. The paid leave mandate in FFCRA was not comprehensive. The legislation expanded access to paid sick and family leave for employees at many small and mid-sized businesses. Employees of large businesses and certain worker groups, however, did not have guaranteed access to paid sick or family leave under FFCRA. Similarly, the tax credits provided in FFCRA were not available to all employers, nor to all employers required to provide leave. State and local government employers, including school districts and public colleges and universities, were required to provide leave but not allowed tax credits to offset FFCRA leave mandate compliance costs.

CAA Voluntary Leave Through March 31, 2021

Employees were eligible for paid sick and family leave after December 31, 2020 only if their employer decided to voluntarily offer it. Under the CAA, the availability of the leave was continued, but converted to a voluntary leave left to the discretion of the employer. The CAA permitted employers to continue receiving the federal tax credit for voluntarily allowing employees to take unused FFCRA paid sick and family leave through March 31, 2021. This legislation did not modify the overall caps on the paid leave amounts for which tax credits could be claimed. Thus, tax credits were limited to a total of 80 hours of paid COVID-19-related sick leave and 10 weeks of paid family leave for certain COVID-related childcare purposes from April 1, 2020, to March 31, 2021.

ARPA Voluntary Leave Through September 30, 2021

The ARPA extended these optional payroll tax credits until September 30, 2021. Under the ARPA, eligible employers may take a tax credit (within set limits) against their share of the Medicare tax to fund the cost of paid employee leave taken for specific COVID-19-related reasons, including to receive and recover from vaccinations. The ARPA provides paid leave tax credits for paid leave provided April 1, 2021 through September 30, 2021. The paid leave tax credits in ARPA were similar to those provided in FFCRA and CAA, with a few notable modifications, including the following:

- The 10-day limit on paid sick leave is reset for leave taken after March 31, 2021.
- The per-employee limit on qualified family leave wages is increased to \$12,000 (or 60 days for self-employed individuals).
- Paid leave credits are allowed for sick leave taken to obtain a COVID-19 vaccine or illness related to immunization, or for leave taken while waiting for COVID-19 test results.
- State and local governments, as well as 501(c)(1) tax-exempt federal government entities, can claim the credit.
- The payroll tax credit is claimed against the employer's portion of the Medicare (HI) tax (the Medicare HI trust fund is not affected).
- Anti-discrimination rules require that leave must be provided to all employees.

Claiming the Credit

The IRS has released new resources explaining the tax credits available for employers who opt to provide paid family leave and paid sick leave under the FFCRA and the ARPA through September 30, 2021. The new resources consist of a [fact sheet](#) and a [snapshot](#) document published on April 21, 2021. In anticipation of claiming the credits on [Form 941](#), Employer's Quarterly Federal Tax Return, employers can keep all employees' federal income tax withholdings and the employees' and employer's share of Social Security and Medicare taxes—which they otherwise would have deposited—up to the amount of credit for which they are eligible. If this does not cover the amount of the anticipated credits, the employer may request an advance by filing [Form 7200](#), Advance Payment of Employer Credits Due to COVID-19.

Employers are encouraged to contact their leave/employment law and tax advisors for assistance with the FFCRA and ARPA paid leave and tax credit guidance. Please contact your Conner Strong & Buckelew account representative toll-free at 1-877-861-3220 with any questions on health and group benefits related matters. For a complete list of Legislative Updates issued by Conner Strong & Buckelew, visit our online [Resource Center](#).

