

Families First Coronavirus Response Act FAQs

April, 2020

The Families First Coronavirus Response Act (FFCRA) requires certain employers to provide paid sick leave or family and medical leave for reasons related to coronavirus. Here, we answer some Frequently Asked Questions to help you understand this benefit.

Which employees are eligible?

- ▶ All employees are eligible for two weeks of paid sick time
- ▶ Employees employed for at least 30 days are eligible for an additional 10 weeks of paid family leave

What are the details of the paid leave?

Eligible employees can receive:

- ▶ Two weeks (up to 80 hours) of paid sick leave paid at 100% of employee's regular rate of pay
- ▶ Two weeks (up to 80 hours) of paid sick leave paid at 2/3 of the employee's regular rate of pay
- ▶ Up to an additional 10 weeks of paid expanded family and medical leave at 2/3 of the employee's regular rate of pay

What time period applies?

- ▶ These provisions apply beginning April 1st and continue through December 31, 2020. If you have lost your job or been laid off prior to April 1, you cannot claim any of these benefits.

What businesses must comply?

- ▶ Certain public employers as well as private employers with fewer than 500 employees
- ▶ Small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to school closings or if childcare is unavailable if the leave would jeopardize the viability of the business as a going concern

What reasons for leave are applicable?

If you:

- 1 Are subject to a federal, state or local quarantine or isolation order
- 2 Have been advised by a health care provider to self-quarantine
- 3 Are experiencing COVID-19 symptoms and are seeking a medical diagnosis
- 4 Are caring for an individual subject to an order described above
- 5 Are caring for a child whose school or place of care is closed (or childcare provider is unavailable) for reasons related to COVID-19
- 6 Are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services

What form of leave may you qualify for?

For reasons #1 through 4 and #6:

- ▶ A full-time employee is eligible for 80 hours of leave
- ▶ A part-time employee is eligible for the number of hours of leave that the employee works on average over a two-week period

For reason #5:

- ▶ A full-time employee is eligible up to 12 weeks of leave (two weeks of paid sick leave followed by 10 weeks of paid expanded family & medical leave) at 40 hours per week
- ▶ A part-time employee is eligible for leave for the number of hours that employee is normally scheduled to work over that period

What are the exemptions and limits?

50 Employee Exemption:

An employer qualifies for the exemption if:

- ▶ Employer's expenses will be more than their revenue such that the employer is not able to operate at a minimal capacity
- ▶ One or more employees have specialized skills or knowledge and their leave would cause substantial risk to the financial health or operational capacity of the business
- ▶ Employer can't replace employee(s) with others who are able, willing, qualified, and available at the time and place needed

500 Employee Limit:

All employees are counted including:

- ▶ All employees located in the US, DC territory, or possession of the U.S.
- ▶ Full-time employees who work 40 hours or more per week
- ▶ Part-time employees who work less than 40 hours per week
- ▶ Temporary agency provided or jointly employed
- ▶ Employees already on family or medical leave or sick leave

Each employer counts as a separate employer unless they meet the integrated employer test— a facts and circumstances test— under the Family and Medical Leave Act (FMLA). An employer is integrated if they have:

- ▶ Common management
- ▶ Interrelation between operations
- ▶ Centralized control of labor relations and
- ▶ Degree of common ownership or financial control

Independent contractors are not included as employees.

Employers subject to these rules will receive payroll tax credits by either not remitting certain payments or by advanced refunds or both. Employers may request an advance by submitting Form 7200 which can be filed at anytime and as many times as needed. The Paid Sick Leave Credit is limited to \$200 or \$511 per day paid during the quarter for up to 80 hours. The Child Care Leave Credit is limited to \$200/day paid during the quarter for up to 10 weeks.

Let's take a look at some examples:

- 1 Company A has 475 full-time and 100 part-time employees. The total number of employees is greater than 500, so this company is not required to provide the additional leave. If it does, it is not entitled to the payroll tax credits.
- 2 Company B has 100 employees. Employee A earns \$325 a week and has self-quarantined under doctor's orders. On April 1, that employee claims paid sick leave. The employer must pay lesser of \$511 per day or the employee's normal pay $\$325/5 = \$65/\text{day}$ for 10 days. The employer claims a payroll tax credit for the payment of sick leave. These leave payments are exempt from employer FICA, so no credit is available for that amount. These payments are taxable wages to the employee.

Important Note: Self-employed individuals are also eligible for the credit.

The rules are complicated, and employers should seek out tax, business management, or other financial specialists familiar with the provisions of the FFCRA to assist them.

For more information, please read our other helpful guides:

[Key Components of the CARES Act for Individuals](#)

[What Businesses Need to Know About the CARES Act](#)

[Paycheck Protection Program FAQs](#)

[Employee Retention Credit FAQs](#)

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