



Tax Credits for Paid Leave Under the American Rescue Plan Act of 2021: How Should an Eligible Employer Substantiate Eligibility for Tax Credits for Qualified Leave Wages?

Note: These FAQs address the tax credits available under the American Rescue Plan Act of 2021 (the "ARP") by employers with fewer than 500 employees and certain governmental employers without regard to the number of employees ("Eligible Employers") for qualified sick and family leave wages ("qualified leave wages") paid with respect to leave taken by employees beginning on April 1, 2021, through September 30, 2021, as well as the equivalent credits available for certain self-employed individuals. For information about the tax credits that may be claimed for qualified leave wages paid with respect to leave taken by employees prior to April 1, 2021, under the Families First Coronavirus Response Act ("FFCRA") and the COVID-related Tax Relief Act (the "Relief Act"), see [Tax Credits for Paid Leave Under the Families First Coronavirus Response Act for Leave Prior to April 1, 2021 FAQs](#).

Although the requirement that Eligible Employers provide leave under the Emergency Paid Sick Leave Act ("EPSLA") and Emergency Family and Medical Leave Expansion Act ("Expanded FMLA") under the FFCRA does not apply after December 31, 2020, the tax credits under sections 3131 through 3133 of the Internal Revenue Code ("the Code") are available for qualified leave wages an Eligible Employer provides with respect to leave taken by employees beginning on April 1, 2021, through September 30, 2021, if the leave would have satisfied the requirements of the EPSLA and Expanded FMLA, as amended for purposes of the ARP.

Throughout these FAQs, the use of the word "work," unless otherwise noted, is inclusive of telework.

64. What information should an Eligible Employer receive from an employee and maintain to substantiate eligibility for the paid sick leave or paid family leave credits? (added June 11, 2021)

An Eligible Employer will substantiate eligibility for the paid sick leave or paid family leave credits if the employer receives a written request for the leave from the employee in which the employee provides:

- the employee's name;
- the date or dates for which leave is requested;
- a statement of the COVID-19 related reason the employee is requesting leave and written support for that reason; and
- a statement that the employee is unable to work, including by means of telework, for that reason.

In the case of a leave request based on a government quarantine or isolation order or self-quarantine advice, the statement from the employee should include the name of the governmental entity ordering quarantine or isolation, or the name of the health care professional advising self-quarantine, and, if the person subject to quarantine or isolation, or advised to self-quarantine is not the employee, that person's name and relation to the employee.

In the case of a leave request based on a school closing or child care provider unavailability, the statement from the employee should include the name and age of the child (or children) to be cared for, the name of the school (or summer camp, summer enrichment program, or other summer program) that has closed or place of care that is unavailable, and a statement that no other suitable person will be providing care for the child during the period for which the employee is receiving family medical leave.

In the case of a leave request based on obtaining vaccination or recovery from a condition related to vaccination, the statement from the employee should include the date of vaccination. In the case of a leave request based on awaiting the results of a COVID-19 test or diagnosis, due to either exposure or an employer request, the statement from the employee should include the date of the test.

Example: A state government directive specifies that employees quarantining either because they have COVID-19 symptoms or have been directly exposed to COVID-19 are not required to provide their employer with a COVID-19 test result or a healthcare provider's note to validate their illness or exposure and need for leave. A written request from an employee providing the name of the government entity and briefly describing the directive would satisfy the applicable substantiation requirements.

65. What additional records should an Eligible Employer maintain to substantiate eligibility for the paid sick leave or paid family leave credit? (added June 11, 2021)

An Eligible Employer will properly substantiate eligibility for the paid sick leave or paid family leave credits if, in addition to the information set forth in the FAQ above ("[What information should an Eligible Employer receive from an employee and maintain to substantiate eligibility for the sick leave or family leave credits?](#)"), the employer creates and maintains records that include the following information:

- Documentation to show how the Eligible Employer determined the amount of qualified sick and family leave wages paid to employees that are eligible for the credit, including records of work, telework and qualified sick leave and qualified family leave.
- Documentation to show how the Eligible Employer determined the amount of qualified health plan expenses that the employer allocated to wages. See "[Determining the Amount of Allocable Qualified Health Plan Expenses](#)" for methods to compute this allocation.
- Documentation to show how the Eligible Employer determined the amount of collectively bargained benefits that the Eligible Employer allocated to wages. See "[Determining the Amount of Allocable Amounts Paid Under Certain Collectively Bargained Agreements](#)" for methods to compute this allocation.
- Copies of any completed [Forms 7200, Advance Payment of Employer Credits Due To COVID-19](#), that the Eligible Employer submitted to the IRS.

- Copies of the completed [Forms 941, Employer's Quarterly Federal Tax Return](#), that the Eligible Employer submitted to the IRS (or, for Eligible Employers that use third-party payers to meet their employment tax obligations, records of information provided to the third-party payer regarding the Eligible Employer's entitlement to the credit claimed on Form 941).

66. How long should an Eligible Employer maintain records to substantiate eligibility for the paid sick leave or paid family leave credit? (added June 11, 2021)

An Eligible Employer should keep all records related to the paid sick and family leave credits for at least six years after the date the tax becomes due or is paid, whichever comes later. These records should be available for IRS review.

67. May an Eligible Employer choose to require information from employees in addition to that described in these FAQs? (added June 11, 2021)

Yes. An Eligible Employer may choose to require additional information from the employee.

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