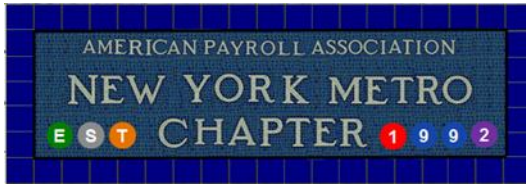


At a Crossroads: The Intersection of the CARES Act, the PPP, and the FFCRA



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June 18, 2020



Always Designing
for People™

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- Prior to current role, served as Vice President Total Absence Management, ADP; Sr. Vice President of Product Management, SHPS; Director, Product Development & Management, CIGNA
- 20+ years of experience in leadership, operations and product management in workforce management, payroll, compensation and benefits strategy, compliance, and administration in the fast-paced, high-growth, outsourcing and insurance markets
- Recognized authority and a noted speaker at industry conferences and events, spokesperson on critical HR topics to national media, a frequent contributor to ADP blogs and widely published in outlets including SHRM, Employee Benefits News, HR Daily Advisor, HRO Today, Forbes, CFO Magazine, and CPA Practice Advisor.
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Disclaimer

This presentation is not:

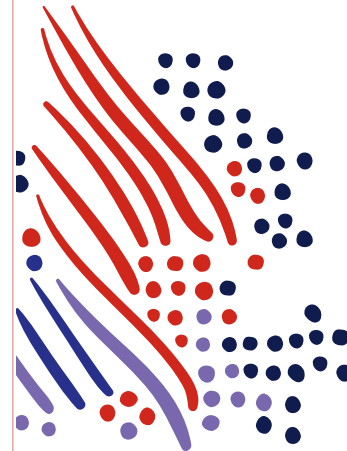
- Legal advice
- The final word on today's topics
- A political opinion

Before taking any actions

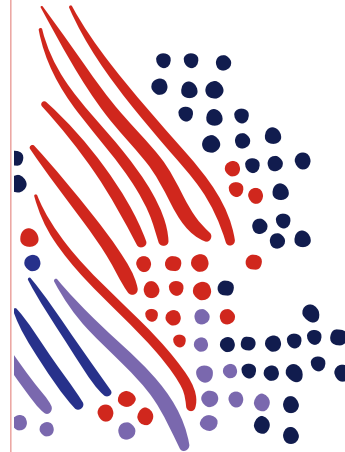
Before taking any actions on the information contained in this presentation, employers should review this material with internal and/or external counsel.

Legislative updates

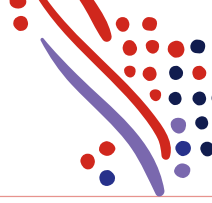
- 1 COVID-19 Federal Response – Timeline
- 2 Families First Coronavirus Response Act (Families First)
- 3 Coronavirus Aid, Relief, and Economic Security (CARES) Act
- 4 Intersection
- 5 What to do now



COVID-19 FFCRA, CARES Act, and the Paycheck Protection Program



COVID-19 federal response



First stimulus

March 6, 2020

H.R. 6074
Coronavirus
Preparedness and
Response
Supplemental
Appropriations Acts



Second stimulus

March 18, 2020

H.R. 6201
Families First
Coronavirus
Response Act
(Families First or
FFRCA)



Third stimulus

March 27, 2020

H.R. 748
Coronavirus Aid,
Relief, and Economic
Security Act (CARES
Act)



Update

April 24, 2020

H.R. 266
Paycheck Protection
Program and Health
Care Enhancement Act



Update

June 5, 2020

H.R. 7010
Paycheck Protection
Program Flexibility
Act



Families First Coronavirus Response Act (Families First)

Enacted
March 18, 2020

Families First Coronavirus Response Act (FFCRA)

Employers with under 500 employees must provide paid sick and paid family leave to employees affected by COVID-19

- *Effective April 1, 2020 to December 31, 2020*
- Affected employers get a corresponding tax credit

Three primary sections for employers:

- Emergency Family and Medical Leave Act Expansion
- Emergency Paid Sick Leave Act
- Tax Credits for Paid Sick and Paid Family and Medical Leave



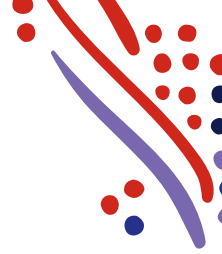
Which employers are affected?

Generally - private sector employers with under 500 employees and government entities

Exemptions available

- Health-care providers
- Emergency responders
- Businesses with fewer than 50 employees
 - *If such requirements would jeopardize the business*





Determining Fewer-than-500 Employee Threshold

- Must be determined on the **date the employee leave** is to begin
- Include **full-time and part-time employees** within the United States, including any State of the United States, the District of Columbia, or any Territory or possession of the U.S.
 - **Employees on leave; temporary employees who are jointly employed** by employers and another employer (regardless of whether the jointly-employed employees are maintained on only one or another employer's payroll);
 - Furloughed employees don't count towards the active count; and
 - **Independent contractors**, and **day laborers** supplied by a temporary agency (regardless of whether employers are the temporary agency or the client firm if there is a continuing employment relationship).
- **For companies with multiple divisions or subsidiaries**, the DOL stated that typically, a corporation (including its separate establishments or divisions) is considered a single employer and its employees must each be counted towards the fewer than 500-employee threshold
- **For separate but related companies**, the DOL has adopted the integrated employer test under the FMLA. Generally, this test requires an evaluation of factors to determine whether two entities should be considered an integrated employer for purposes of aggregating the total number of employees they have

USDOL FFCRA leave notice must be posted

Employers must post a notice of these requirements --

"...in conspicuous places where notices to employees are customarily posted."

<https://www.dol.gov/agencies/whd/pandemic>



The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅔ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.*

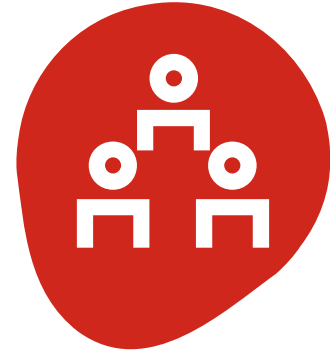
▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

- | | |
|--|--|
| 1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19; | 5. is caring for his or her child whose school or place of care is closed (or child care provider is |
|--|--|

Emergency Family and Medical Leave Expansion Act

- Up to 12 weeks of job protected leave
 - Must have been employed for 30 calendar days
- ONLY if unable to work or telework to care for a child if the school or child care provider is closed due to COVID-19
- 10 days can be unpaid, or employees may use other paid leave (including paid leave provided by this Act)
- 10 weeks of paid leave
- Paid at two-thirds the Regular Rate of Pay (FLSA)
 - Capped at \$200 per day, \$10,000 for 2020



REMINDER: The total leave under the FMLA, including leave under the FFRCA and for previously existing FMLA-qualifying situations, is limited to 12 weeks.

Calculation of Expanded FMLA Time



Part-time

“Average hours the employee works over a 2-week period.”



Variable work schedules

“Average hours the employee was scheduled per day over the 6-month period ending on the date on which the employee takes such leave, including hours for which the employee took leave of any type.”

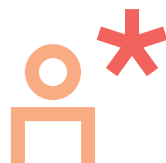
Less than six-months of work history =
“reasonable expectation of the employee at the time of hiring”

Emergency Paid Sick Leave Act



Employers with under 500 employees and government entities

- All employees, regardless of how long employed
- Unable to work (or telework) due to the following.....



Self

- Quarantine or advised to self-quarantine related to COVID-19
- Experiencing symptoms and seeking a diagnosis



Caring for Others

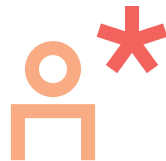
- Caring for an individual subject to quarantine
- Caring for a son or daughter as defined by the FMLA; if the school/child care is closed
- Other similar condition as specified by HHS/DOL/Treasury

Calculation of emergency paid sick leave



How long?

- 10 workdays
- 80 hours
- 2 workweeks



Self

- Regular Rate of Pay
- Up to \$511 per day (\$5,110)



Caring for Others

- Two-thirds the Regular Rate of Pay
- Up to \$200 per day (\$2,000)

Same rules for part-time and variable-hour workers.

Paid family leave and paid sick leave tax credits



Non-governmental employers with less than 500 employees

- Credit equal to 100(++) percent of the qualified sick/family leave wages paid.
 - Subject to those limits.
 - The credit is increased by specified health expenses (e.g., employer-paid health plan premiums).
 - Plus 1.45% (Employer Medicare tax).



Applies to federal employment taxes

- Usually due within a few days of each payroll.
- This provides the funds needed to pay sick and family leave benefits.
- Treasury Department and IRS will also make advance payments of the credit.

Effective dates, tax treatment, other...



Effective April 1, 2020; Sunsets December 31, 2020.

- Nothing in the law diminishes any rights that employees may have under federal, state, or local laws; collective bargaining agreements; or an employer's existing policy.
 - i.e., State or Local Paid Leave Mandates.



Paid Sick Leave and Paid Family and Medical Leave Payments are wages.

- But exempt from employer Social Security taxes.
- Subject to Medicare taxes, but the tax credit is increased by the tax.

Documentation Requirements

Regardless of whether you grant or deny a request for paid sick leave or expanded family and medical leave, you must document the following:

- The name of your employee requesting leave;
- The date(s) for which leave is requested;
- The reason for leave; and
- A statement from the employee that he or she is unable to work because of the reason.

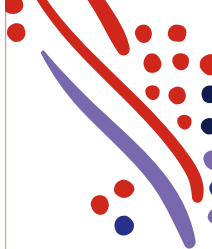
If your **employee requests leave because he or she is subject to a quarantine or isolation order or to care for an individual subject to such an order**, you should additionally document the name of the government entity that issued the order

If your **employee requests leave to self-quarantine based on the advice of a health care provider or to care for an individual who is self-quarantining based on such advice**, you should additionally document the name of the health care provider who gave advice

Documentation Requirements (continued)

If your employee requests leave to care for his or her child whose school or place of care is closed, or child care provider is unavailable, you may must also document:

- The name of the child being cared for;
- The name of the school, place of care, or child care provider that has closed or become unavailable; and
- A statement from the employee that no other suitable person is available to care for the child.
- For a child older than fourteen during daylight hours, a statement that special circumstances exist requiring the employee to provide care.

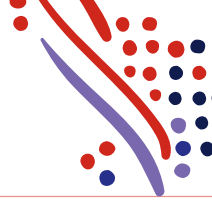


Documentation – additional requirements

1. Documentation to show **how the 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**.
2. Documentation to show **how the employer determined the amount of qualified health plan expenses that the employer allocated to wages**.
3. Copies of any **completed Forms 7200, Advance of Employer Credits Due To COVID-19**, that the employer submitted to the IRS.
4. Copies of the **completed Forms 941, Employer's Quarterly Federal Tax Return**, that the employer submitted to the IRS (or, for employers that use third party payers to meet their employment tax obligations, records of information provided to the third party payer regarding the employer's entitlement to the credit claimed on Form 941).

Employers should keep all records of employment taxes for at least 4 years after the date the tax becomes due or is paid, whichever comes later. These should be available for IRS review.

Comparing Medical, Family, and Sick Leaves during COVID-19



Emergency Family and Medical Leave Expansion



Emergency Paid Sick Leave



Family and Medical Leave Act



Are You a Covered Employer?

Employers with fewer than 500 employees

Employers with fewer than 500 employees

Employers who employ 50 or more employees for at least 20 workweeks

Effective Date

April 1, 2020

April 1, 2020

August 5, 1993

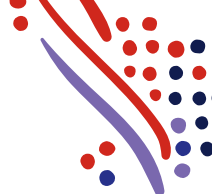
Sunset Date

December 31, 2020

December 31, 2020

Not applicable

Comparing Medical, Family, and Sick Leaves during COVID-19



Emergency Family and Medical Leave Expansion



Emergency Paid Sick Leave



Family and Medical Leave Act



Post the Notice

Employee Rights – Paid Sick Leave and Expanded Family and Medical Leave under the FFCRA

Employee Rights – Paid Sick Leave and Expanded Family and Medical Leave under the FFCRA

Employee Rights under the Family and Medical Leave Act

When and Why are Your Employees Eligible for Leave?

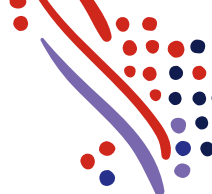
Employees unable to work or telework due to the need to:

- Care for a son or daughter under 18 years old if school or place of care is closed
- Or child care provider is unavailable due to public health emergency

1. Local quarantine or isolation order
2. Health care provider advises self quarantine
3. Experiencing symptoms and seeking diagnosis
4. Caring for individual subject to quarantine
5. Care for child whose school or child care is closed
6. Experiencing similar condition

1. Birth of a son or daughter
2. Placement with employee of a child for adoption or foster care
3. To care of an immediate family member with a serious health condition
4. Medical leave for an employee with a serious health condition
5. Spouse, son or daughter on covered active duty
6. Care for a covered servicemember with a serious injury or illness

Comparing Medical, Family, and Sick Leaves during COVID-19



Emergency Family and Medical Leave Expansion



Emergency Paid Sick Leave



Family and Medical Leave Act



Are Your Employees Eligible?

Employees who have been employed for at least 30 calendar days

May exclude:

- Certain health care providers and emergency responders
- Small businesses with less than 50 employees if business is in jeopardy

All employees eligible regardless of how long employed by employer

May exclude:

- Certain health care providers and emergency responders
- Small businesses with less than 50 employees for reasons 4-6 on previous page

- Employees who have worked 1,250 hours during the 12 months prior to start of leave
- Work at a location where the employer has 50 or more employees within 75 miles
- And, have worked for the employer for 12 months

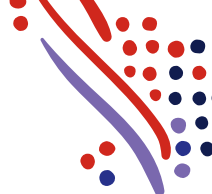
Is the Leave Paid?

- Yes, but the first 10 days can be unpaid (Employee can use accrued PTO)
- Remainder of leave must be at 2/3 the employee's regular rate of pay
- Paid leave is subject to a limit of \$200 per day up to a total amount of \$10,000

Yes. Based on employee's regular compensation but capped at a maximum of 100% of wages up to \$511 per day (total \$5,110) for reasons 1-3 above and 2/3 of wages up to \$200 per day (\$2,000 total) for reasons 4-6 on previous page

No. Paid leave is not required

Comparing Medical, Family, and Sick Leaves during COVID-19



Emergency Family and Medical Leave Expansion



Emergency Paid Sick Leave



Family and Medical Leave Act



How Much Leave is Available?

Up to 12 weeks of job protected leave

- Full-time employees – up to 80 hours of paid sick leave
- Part-time employees – average hours worked over a 2-week period

12 workweeks in a 12-month period (up to 26 workweeks for a covered service member with a serious illness or injury)

Can the Employer Take a Credit for the Amount Paid to Employees?

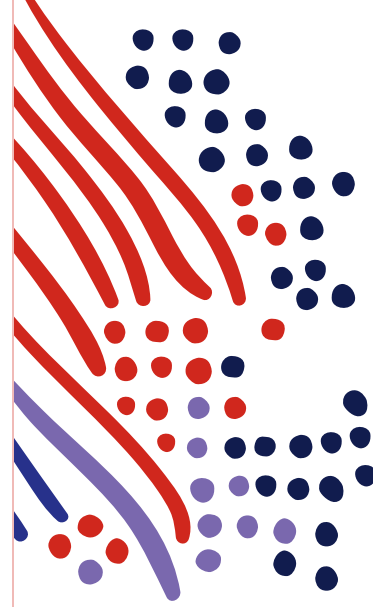
Paid family leave tax credits are available

Paid sick leave tax credits are available

Not applicable

Please visit: www.adp.com/covid-19 for additional employer insights and guidance during this challenging time.

Other Federal and State Leave Laws



Employee benefits sources

- Family and Medical Leave Act
- State Paid Sick Leaves
- Unemployment Insurance
- Workers' Compensation
- State Disability Insurance
- Existing company plans and policies



COVID-19

State paid sick leave considerations / examples

- Covered uses for state paid sick leaves are **state / jurisdiction dependent**
- Consider:
 - Confirmed COVID case
 - Suspected COVID-19 case
 - Care for person with COVID-19 (covered relation)
 - Quarantine – Voluntary (preventive care)
 - Quarantine - Mandatory
 - School closure
 - Business closure (curfew)
- Consider **state-specific eligibility definitions**, duration of benefit, and amount of pay



COVID-19

State and Local Updates - Examples

Eye on Washington May issue includes the latest paid sick leave guidance related to coronavirus disease (COVID-19) -- <https://www.adp.com/resources/articles-and-insights/adp-research-institute/research-topics/legislative-updates>

- **California** Clarifies Paid Sick Leave Can Be Used During Coronavirus
- Temporary Emergency Rule Issued in **Colorado** Requiring Paid Sick Leave
- **Nevada** Releases Guidance on Paid Sick Leave and Coronavirus
- **New Jersey** DOL Releases Guidance on Coronavirus and Earned Sick Leave Law
- **New York State** Enacts Emergency Paid Sick Leave
- **Washington** State Releases Guidance on Paid Sick Leave and Coronavirus
- **Philadelphia**, Pennsylvania, Expands Use of Paid Sick Leave Due to Coronavirus
- **Pittsburgh**, Pennsylvania, Provides Guidelines on Paid Sick Leave
- **San Francisco**, California, Issues Guidance on Paid Sick Leave During Coronavirus Outbreak
- **Minneapolis**, Minnesota Provides Guidance on Paid Sick Leave and COVID-19
- COVID-19 Paid Sick Leave Guidance Issued by **Duluth**, Minnesota

COVID-19

State and Local Updates - Examples

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State Leave:

- **Arizona** Issues Guidance on State Paid Sick Leave Law and COVID-19
- Executive Order Provides **California Food Sector Employees** with Paid Sick Leave
- **Colorado** COVID-19 HELP Rule Modified
- **Connecticut** Issues COVID-19 Guidance
- **District of Columbia** Expands DCFMLA Due to COVID-19
- Executive Order Expands **Michigan** Paid Medical Leave Act
- **New Jersey** Enacts Expansion of Leave and Disability Law Benefits Due to Epidemics
- **New York State** Enacts Emergency Paid Sick Leave
- **New York State** 2021 Budget Provides for Permanent Paid Sick Leave
- Voting Leave Law Amended Again in **New York**
- **Oregon Expands** OFLA Due to COVID-19
- **Puerto Rico** Enacts Law Creating Special Paid Leave for Non-Exempt Employees in the Private Sector

COVID-19

State and Local Updates - Examples

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City Leave:

- City of **Los Angeles** Supplemental COVID-19 Paid Sick Leave Ordinance Modified by Mayor
- **Dallas** Paid Sick Leave Law Enforcement Blocked
- Employers May Not Require Doctor's Note for **San Francisco** Paid Sick Leave Taken for COVID-19, guidance on wage statement requirement
- **Minneapolis** Updates FAQs on Paid Sick Leave and COVID-19
- **New York City** Provides Guidance on Paid Safe and Sick Leave Law and COVID-19
- **San Jose** Approves Emergency Paid Sick Leave Policy
- **Seattle** Amends Paid Sick and Safe time Ordinance Due to Coronavirus

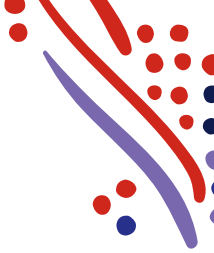
COVID-19

State and Local Updates - Examples

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- California's **Los Angeles County** Requires Supplemental Paid Sick Leave
- **Oakland**, California, Approves Emergency Paid Sick Leave Ordinance
- **San Francisco**, California, Enacts Emergency Leave Ordinance Leave
- **California** Provides Required Notice for Food Sector Employees' Paid Sick Leave
- **New Jersey** Again Amends Family Leave, Temporary Disability Laws to Expand COVID-19 Benefits; also Amends Earned Sick Leave Rules
- **Colorado** Expands Coverage and Amount of Leave Provided under HELP (also cover workers in the food and beverage manufacturing industry)
- **Maryland** Amends Definition of Family Member Under Healthy Working Families Act
- **Chicago**, Illinois, Amends Paid Sick Leave Definitions
- **New York City** Streamlines Process to Apply for New York State Emergency Paid Sick Leave
- **St. Paul**, Minnesota, Clarifies Use of Paid Sick Leave During COVID-19

New Jersey benefits



COVID-19 scenarios	Earned sick leave	Unemployment insurance	Temporary disability/family leave insurance	Workers' Compensation
A person who has COVID-19, or symptoms of COVID-19	Yes	No	Yes	Depends
Worker was unable to work because of school or daycare closed for a public health reason	Yes	No	No	No
Worker was exposed and quarantined. Business remains open.	Yes	No	Yes	Depends

For a complete list of scenarios, visit: <https://www.nj.gov/labor/worker-protections/earnedsick/covid.shtml>

Employee benefits considerations

Reductions in hours or furloughs



Generally, a reduction in hours or furlough is not a COBRA qualifying event, unless it results in a loss of group health coverage.



An employer's plan rules will govern whether either event will result in a loss of coverage.



Employers should ensure COBRA notices are used if there is a loss of coverage as a result of either event.

Enacted
March 27, 2020

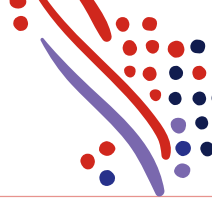
Coronavirus Aid, Relief and Economic Security (CARES) Act and the Paycheck Protection Program (PPP)

CARES Act provisions

- Retirement provisions
- Unemployment insurance expansion
- Employer payments of student loans
- Paycheck Protection Program
- Payroll tax deferrals
- Employee retention credits
- Other loan options
 - Economic Injury Disaster Loans
 - SBA Express Loans



Paycheck Protection Program (PPP)



Businesses and nonprofit organizations with 500 or fewer employees

- Loans available through June 30, 2020,
- Up to 100% forgivable if spent on covered costs and employment and wage levels maintained
- Must have been in operation, with employees, on February 15, 2020.



500-employee exception for Hospitality/Food Service (NAICS code 72) - by physical location

- Certain franchises may also qualify as separate businesses.



Loan amounts = 250% of average monthly payroll costs from 12-month look-back, up to \$10 million



Payroll costs **include** wages, health, retirement, state/local taxes and other costs, and **exclude** cash compensation (pro-rated) over \$100,000 per employee, workers compensation premiums, payments to independent contractors, and employer-paid federal taxes

Do I qualify for a PPP loan?

Eligibility for PPP loans



Any business concern, 501(c)(3) nonprofits, 501(c)(19) veterans' organizations, or Tribal business concerns described in section 31(b)(2)(C) of the Small Business Act that:

- Has **500 or fewer employees** **OR**
- Meets applicable SBA size limits for industry as identified in NAICS codes.



Eligible entities are small business concerns:

- Meets the applicable small business size standard established by the applicable NAICS code.
- Must be U.S.-based, generally a for profit business, and make significant contributions to the U.S. economy.
- Includes sole proprietorships, partnerships, corporations, and other legal forms.



Please note that **affiliation rules generally apply** when determining eligibility (except for hospitality and franchises).

- Ownership
- Stock options, convertible securities, agreements to merge
- Common Management
- Identity of interest

How much can I borrow?

Payroll cost calculation



Costs eligible for payroll:

- Compensation (salary, wage, commission, bonuses, or similar compensation, payment of cash tip or equivalent)
- Payment for vacation, parental, family, medical, or sick leave
- Allowance for dismissal or separation
- Payment required for the provisions of group health care benefits, including insurance premiums
- Payment of any retirement benefit
- Payment of State or local tax assessed on the compensation of employee

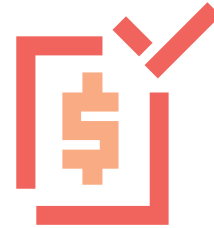


Costs not eligible for payroll:

- Employee/owner compensation **over** \$100,000
- Federal Employer taxes
- Compensation of employees whose principal place of residence is outside of the U.S
- Qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the *Families First Coronavirus Response Act*
- Compensation to independent contractors

Eligible uses other than payroll costs

- Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums
- Payments of **interest on any mortgage obligation** (which shall not include any prepayment of or payment of principal on a mortgage obligation)
- **Rent** (including rent under a lease agreement)
- Utilities (electric, gas, water, transportation, telephone and internet access)
- Interest on any other **debt obligations** that were incurred before the covered period
- **All must have been existing obligations prior to Feb 15, 2020)**





PPP Loan Forgiveness, Before and After PPPFA

Terms of PPP loans

Original loan terms for portion not forgiven

- 2-year term
- 1% fixed interest rate
- Zero loan fees
- Zero prepayment fee
- 6-month payment deferral

Loan terms for portion not forgiven, post-PPPFA

- 5-year term
- 1% fixed interest rate
- Zero loan fees
- Zero prepayment fee
- Payment deferral until SBA compensates lender for forgiven amount, except repayment must commence if borrower has not applied for forgiveness within 10 months of expiration of borrower's covered period

Percentage of funds required to be spent on payroll costs



Original PPP requirement

- 75% of loan proceeds must be spent on payroll costs
- Partial forgiveness allowed if at least 75% of amount forgiven spent of payroll costs



Post-PPPFA requirement

- 60% of loan proceeds must be spent on payroll costs
- Partial forgiveness allowed if at least 60% of amount forgiven spent of payroll costs

Forgiveness calculation



Example 1:

Principal Amount: \$100,000

Amount Spent on Payroll Costs: \$70,000

Amount Spent on Non-Payroll Costs: \$30,000

Maximum allowable forgiveness = \$100,000

[More than 60% of loan spent on payroll costs]



Example 2:

Principal Amount: \$100,000

Amount Spent on Payroll Costs: \$55,000

Amount Spent on Non-Payroll Costs: \$45,000

Maximum allowable forgiveness = \$91,666.67

[60% of 91,666.67 = \$55,000]

“Covered period” to spend loan proceeds

Original “covered period”

Forgiveness on a covered loan is available for the sum of certain costs incurred during the 8-week period commencing on the origination date of the loan.

If employees are paid on a biweekly or more frequent schedule, the covered period may begin on the first day of the first pay period following disbursement of the loan (“Alternative Payroll Covered Period”) for payroll costs only.

Post-PPFPA “covered period”

Employers have **24 weeks** in which to spend loan proceeds, or until December 31, 2020, if earlier.

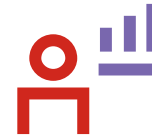
For loans issued prior to June 5, 2020, may elect to use the original 8-week covered period.

Forgiveness reduction safe harbor



Original safe harbor

Employers allowed until June 30, 2020 to reverse decreases in employment levels and/or significant decreases (>25%) in wage levels made between February 15 and April 26, 2020.



Post-PPPFA safe harbor

Employers allowed until **December 31, 2020** to reverse decreases in employment levels and/or significant decreases (>25%) in wage levels made between February 15 and April 26, 2020.


Additional safe harbor changes

- ★ Forgiveness not reduced based on an inability to rehire employees if the employer can document (1) **written offers to rehire** individuals who were employees of the organization on February 15, 2020; and (2) an **inability to hire similarly qualified employees** for unfilled positions by December 31, 2020.
- ★ Forgiveness not reduced for failure to maintain employment levels if **inability to return to the same level of business activity** as existed prior to February 15, 2020, due to compliance with COVID-19-related guidance from agencies between March 1 and December 31, 2020.
- ★ Employers that received PPP loans prior to June 5, 2020, may elect to retain the original eight-week covered period to spend loan proceeds.
- ★ Those that prefer to use the longer period of up to 24 weeks may need to demonstrate compliance with the requirements to maintain employment levels through the entire 24-week period or to restore wage and full-time equivalent employee levels by December 31, 2020.

Employer Social Security tax deferrals

- Employers pay **6.2% in social security taxes** on first \$137,700 of employee wages in 2020
- Under CARES Act, **can defer employer portion** for wage payments made between March 27 and December 31, 2020
- Deferred amounts due in 2 equal installments
 - December 31, 2021
 - December 31, 2022
- Original PPP: Employers must stop deferral when notified of PPP loan forgiveness
- PPPFA: **Employers can continue SS tax deferrals**





Tax forms to claim credits and refunds

Three options to take advantage of the credits



Reduce Employment Tax Deposits

Eligible employers *may* reduce deposits of employment taxes and report on the employment tax return (Form 941)

Employers may fund qualified wages by accessing federal employment taxes, including withheld taxes, that are required to be deposited with the IRS.



File Form 7200

Eligible employers *may* file Form 7200 to request an advance of the tax credit (to extent not recouped from reduced deposits)



Form 941

Employers *may* get a refund for overpayment on the employment tax return (Form 941)

IRS Form 7200 advance payment of employer credits due to COVID-19

- Advanced credits and reduced deposits will be reconciled on your employment tax return
- Employers *may* file Form 7200 to request an advance of the tax credit for:
 - FFRCA Sick and Family Leave
 - CARES Act Employee Retention



Advanced payment - Form 7200

<https://www.irs.gov/pub/irs-pdf/f7200.pdf>

Form 7200 | **Advance Payment of Employer Credits Due to COVID-19** | (OMB) No. 1545-0029
(March 2020)
Department of the Treasury
Internal Revenue Service

▶ Go to www.irs.gov/Form7200 for instructions and the latest information.

Name (put your trade name) _____ Employer identification number (EIN) _____
Trade name (if any) _____ Applicable calendar quarter (check one)
Number, street, and apt. or suite no. if a P.O. box, see instructions. April, May, June
 July, August, September
 October, November, December
City or town, state, and ZIP code, if a foreign address, also complete spaces below. (See instructions.)
Foreign country name _____ Foreign province/county _____ Foreign postal code _____
Does a third-party payer file your employment tax return? (See instructions.) If "yes," enter its name. _____ Third-party payer's EIN (if applicable) _____

Tip: File Form 7200 if you can't reduce your employment tax deposits to fully account for these credits that you expect to claim on your employment tax return for the applicable quarter. Don't reduce your employment tax deposits and request advanced credits for the same expected credits. You will need to reconcile your advanced credits and reduced deposits on your employment tax return. You can't request an advance payment of the credit for sick and family leave for self-employed individuals.

Part I Tell Us About Your Employment Tax Return

A Check the box to indicate which employment tax return form you file (or will file for 2020):
 941, 941-PR, or 941-S5 943 or 943-FR 944 or 944(SP) CT-1

B Is this a new business started on or after January 1, 2020? Yes No
If "Yes," skip line C unless you've already filed Form 941, Form 941-PR, or Form 941-S5 for at least one quarter of 2020.

C Amount reported on line 2 of your most recently filed Form 941 (or wages reported on Schedule R (Form 941), column (c), by your third-party payer (see instructions)). If you file a different employment tax return, see instructions. ▶ _____

D Enter the total number of employees you have. See instructions. ▶ _____

Part II Enter Your Credits and Advance Requested

1	Total employee retention credit for the quarter. See instructions.	1
2	Total qualified sick leave wages eligible for the credit and paid this quarter. See instructions.	2
3	Total qualified family leave wages eligible for the credit and paid this quarter. See instructions.	3
4	Add lines 1, 2, and 3.	4
5	Total amount by which you have already reduced your federal employment tax deposits for these credits for this quarter.	5
6	Total advanced credits requested on previous filings of this form for this quarter.	6
7	Add lines 5 and 6.	7
8	Advance requested. Subtract line 7 from line 4. If zero or less, don't file this form.	8

Form 941 timing – What you need to know

Form 941 filing date not extended

- The IRS has announced tax return filing extensions and extensions of time to take other tax-related actions in response to COVID-19.
- The IRS did not extend the due date for filing Form 941, Employer's Quarterly Federal Tax Return, for the first quarter of 2020.
- Employers generally must report wages paid during Q1 – which is January through March – by April 30.

Report the Employee Retention Credit on Form 941 for Q2 2020

- Employers were not able to include the Employee Retention Credit on their Q1 Form 941.
- Eligible employers who paid qualified wages with respect to the credit between **March 13, 2020 and March 31, 2020**, inclusive, will report 50% of those wages together with 50% of any qualified wages paid during April, May, and June 2020 on their 2nd quarter Form 941 to claim that credit.



Form 941 for 2020: Employer's QUARTERLY Federal Tax Return
 (Rev. April 2020) Department of the Treasury — Internal Revenue Service

950120
 OMB No. 1545-0029

Employer identification number (EIN) -

Name (not your trade name)

Trade name (if any)

Address

Number Street Suite or P.O. Box

City State ZIP

Foreign country name Foreign provincial/county Foreign

Report for this Quarter of 2020 (Check one.)

1: January, February, March

2: April, May, June



Read the separate instructions before you complete Form 941. Type or print within

Part 1: Answer these questions for this quarter.

- Number of employees who received wages, tips, or other compensation including: June 12 (Quarter 2), Sept. 12 (Quarter 3), or Dec. 12 (Quarter 4)
- Wages, tips, and other compensation
- Federal income tax withheld from wages, tips, and other compensation
- If no wages, tips, and other compensation are subject to social security or Medicare tax Check and go to line 6.

	Column 1	Column 2
5a Taxable social security wages	<input type="text"/>	<input type="text"/>
5a (i) Qualified sick leave wages	<input type="text"/>	<input type="text"/>
5a (ii) Qualified family leave wages	<input type="text"/>	<input type="text"/>
5b Taxable social security tips	<input type="text"/>	<input type="text"/>
5c Taxable Medicare wages & tips	<input type="text"/>	<input type="text"/>
5d Taxable wages & tips subject to Additional Medicare Tax withholding	<input type="text"/>	<input type="text"/>
5e Total social security and Medicare taxes. Add Column 2 from lines 5a, 5a(i), 5a(ii), 5b, 5c, and 5d		5e <input type="text"/>
5f Section 3121(q) Notice and Demand—Tax due on unreported tips (see instructions)		5f <input type="text"/>
6 Total taxes before adjustments. Add lines 3, 5e, and 5f		6 <input type="text"/>

Draft Tax Forms

Instructions:

- Enter a term in the Find Box.
- Select a category (column heading) in the drop down.
- Click Find.

Tips:

- Click on the product number in each row to view/download.
- Click on column heading to sort the list.
- You may be able to enter information on forms before saving or printing.

More Information:

- [Downloading and printing](#)
- [File formats](#)
- [View and/or save documents](#)

Find in Product Number Find Find Help

1 - 25 of 1,018 files Show per page: 25 50 100 200 < Previous | 1 2 3 4 5 6 7 8 9 10 | Next >

Product Number	Title	Revision Date	Posted Date
Form 941	Employer's Quarterly Federal Tax Return	0420	04/29/2020
Inst 941	Instructions for Form 941, Employer's Quarterly Federal Tax Return	0420	04/29/2020



Coordination of CARES Act & FFRCA Provisions

	Paid Sick/Family Leave Credit (FFCRA Credits)	Paycheck Protection Program	Employee Retention Credit (ERC)	Payroll Tax Deferral
Paid Sick/Family Leave Credit (FFCRA Credits)		Can take FFCRA credits, but cannot include qualified leave wages in amounts for PPP loan or loan forgiveness purposes	Cannot use same wages for both credits	Can take FFCRA credits and elect to defer payroll tax
Paycheck Protection Program	Can take FFCRA credits, but cannot include qualified leave wages in amounts for PPP loan or loan forgiveness purposes		Ineligible to claim the ERC if PPP loan is obtained.*	Can take PPP loan and elect to defer taxes, with 50% due on December 31, 2021 and the remaining 50% due on December 31, 2022
Employee Retention Credit (ERC)	Cannot use same wages for both credits	Ineligible to claim the ERC if PPP loan is obtained.*		Can elect to defer payroll tax and take ERC
Payroll Tax Deferral	Can take FFCRA credits and elect to defer payroll tax	Can take PPP loan and elect to defer taxes, with 50% due on December 31, 2021 and the remaining 50% due on December 31, 2022	Can take ERC and elect to defer payroll tax	

*The IRS has clarified that if a business fully returned all PPP funds previously borrowed no later than May 18, 2020, it will be considered never to have had a PPP loan, and therefore may be eligible for the ERC.

What to do now

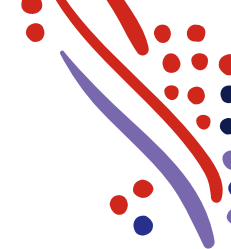


What to do now

- Consider steps to determine whether your organization has maintained adequate levels of employment and wage payments to meet PPP loan forgiveness requirements
- Calculate payroll costs and wage and FTEE comparisons
- Determine whether to apply for forgiveness after 8 weeks, if you received your loan prior to June 5
- If you have FTEE or Wage reductions, consider whether you can restore them before the end of your Covered Period (8 or 24 weeks) or plan to do so by December 31 (if they occurred between Feb 15 and April 26)



Thank you for attending!



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