

Eligibility for Payroll Tax Credit Under Families First Coronavirus Response Act: A Checklist for Employers

04/07/20

To satisfy employer eligibility requirements for payroll tax credits under the Families First Coronavirus Response Act, employers will need to collect and maintain certain information, according to Internal Revenue Service (IRS) requirements.

Employers should review the following two questions extracted from the [Internal Revenue Service FAQ page](#):

44. What information should an eligible employer receive from an employee and maintain to substantiate eligibility for the sick leave or family leave credits?

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

1. The employee's name.
2. The date or dates for which leave is requested.
3. A statement of the COVID-19 related reason the employee is requesting leave and written support for such reason.
4. A statement that the employee is unable to work, including by means of telework, for such reason.

Employee Leave Request

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

Employee Leave Request Due to Unavailability of Child Care

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 that has closed or place of care that is unavailable, and a representation that no other person will be providing care for the child during the period for which the employee is receiving family medical leave and, with respect to the employee's inability to work or telework because of a need to provide care for a child older than fourteen during daylight hours, a statement that special circumstances exist requiring the employee to provide care.

45. What additional records should an eligible employer maintain to substantiate eligibility for the sick leave or family leave credit?

An eligible employer will substantiate eligibility for the sick leave or family leave credits if, in addition to the information set forth in FAQ 44 (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:

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. See FAQ 31 ([Determining the Amount of Allocable Qualified Health Plan Expenses](#)) for methods to compute this allocation.
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).

For more information concerning tax credit eligibility for qualified employer health plan expenses, see IRS FAQ #9 and #31-36.

If you are an employer with questions about eligibility for the Payroll Tax Credit under the Families First Coronavirus Response Act or any other employment issue, please contact [Tracy Armstrong](#), or any member of the Wilentz [Employment Law Team](#).

This blog post is for informational purposes only and not intended to provide individual tax advice.

Attorney

- Tracy Armstrong

Practice

- Employment Law