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# TAX-RELATED PROVISIONS IN THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

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The Families First Coronavirus Response Act creates emergency paid sick leave, as well as paid family leave in the case of school closures, for working families impacted by COVID-19. It does so by requiring employers with up to 500 employees to provide paid sick leave and paid family leave, while providing a refundable payroll tax credit to employers to cover 100 percent of the cost of wages. There is also a refundable income tax credit for self-employed individuals.

Employers must offer two weeks (10 days) of paid sick leave for COVID-19-related reasons (existing leave offered can count towards the 10 days). If the sick leave is for an employee who is themselves sick or seeking a diagnosis, the benefit must replace all of the employee's wages up to a maximum benefit of \$511 per day. If an employee is caring for another individual who is sick, the benefit must replace at least two-thirds of the employee's wages up to a maximum benefit of \$200 per day. Our paid sick leave credit offsets 100% of employer costs for providing mandated paid sick leave. The credit also offsets, uncapped, the employer contribution for health insurance premiums for the employee for the period of leave.

Employers must offer 12 weeks of paid family leave for an employee with a minor child in the event of the closure of the child's school or place of care. The first 10 days are unpaid, but the employee can overlap this with the 10 days of paid sick leave. This benefit must replace at least two-thirds of the employee's wages up to a maximum of \$200 per day. Our paid family leave credit offsets 100% of employer costs for providing mandated paid family leave. The credit also offsets, uncapped, the employer contribution for health insurance premiums for the employee for the period of leave.

Employee Income		Leave Benefit (Equal to Tax Credit)		
		10 Sick Days (Self)	10 Sick Days (Caregiving)	10 Weeks of Family Leave
		100% Wages up to \$511/Day	67% Wages up to \$200/day	67% Wages up to \$200/day
\$15,080 (\$58/day)	Federal Minimum Wage	\$580	\$387	\$1,933
\$26,200 (\$101/day)	Poverty Level - Family of 4	\$1,008	\$672	\$3,359
\$48,672 (\$187/day)	Median Earnings for Full-Time Workers	\$1,872	\$1,248	\$6,240
\$77,997 (\$300/day)	Income for Max Sick Leave (Caregiving) + Family Leave	\$3,000	\$2,000	\$10,000
\$132,900 (\$511/day)	Income for Max Sick Leave (Self)	\$5,110	\$2,000	\$10,000

Both credits get money out the door quickly. This credit is against payroll tax and is refundable, so employers receive funds as they make deposits. Employers do not pay the employer side of payroll taxes on the mandated leave. The Social Security OASDI trust funds and the Railroad Retirement Account are held harmless by transferring funds from the General Fund.

Self-employed individuals are provided similar credits as refundable income tax credits. If territorial governments provide corresponding credits, Treasury shall make payments to territorial governments to cover their estimated costs.

### FAQ

#### **Tax Mechanisms**

##### **How does the refundable payroll tax work?/ Is this a payroll tax cut?**

This is not a payroll tax cut. Payroll tax cuts or holidays typically lower (or eliminate) the payroll taxes that all employers must pay. In our legislation, payroll taxes are simply the mechanism we use to reimburse employers as quickly as possible.

The refundable payroll tax credit works like this: employers that are subject to the mandates pay their employees according to the mandates' requirements. They are allowed a 100% credit against any wages they pay pursuant to the mandates. That credit is used to offset any payroll tax liability an employer has in a calendar quarter. If there is still credit leftover after the credit has been applied to the employer's payroll tax liability, the employer will receive a refund in the amount of that excess.

##### **When do employers or self-employed workers see this money?**

The exact timing of receipt depends on the particular employer, but we have drafted this legislation so that employers get the benefit of any credit as soon as possible. In the case of employers who receive payroll tax credits, they will have lower payroll tax liability or receive a refund for every calendar quarter in which they pay wages pursuant to the mandates. Because employers will not have to put aside money to make payroll tax deposits, their cash flow outlook should improve even sooner than their first filing date.

Self-employed individuals who receive a credit may use that credit against estimated income tax payments. Estimated tax payments are due throughout the year. Self-employed individuals can also receive a refund after the end of their tax year.

##### **Are the Social Security Trust Funds and Railroad Retirement Account held harmless?**

Yes. Funds are transferred from the General Fund to ensure no impact on the OASDI trust funds and RRA.

##### **Are Social Security benefits modified by the payroll tax credits?**

No. The credit is only on the employer side of the Social Security OASDI tax, not the employee side.

##### **What about the territories?**

Employers in the territories are subject to the mandate on the same basis as employers in the rest of the United States. Employers will receive a payroll tax credit on the same basis as employers in the rest of the United States for qualifying wages paid to employees in the territories. If Puerto Rico or American Samoa provide for an equivalent credit to self-employed individuals, the federal government will reimburse those territories for payments under such a credit. Self-employed individuals in Guam, the U.S.V.I. and C.N.M.I. will receive the credit from the territorial governments, and the federal government will reimburse them the cost of the credit.

#### **Types of Employees**

##### **Are hourly workers covered?**

Yes, they are covered to the extent that their employer is mandated to provide leave. For paid sick leave, full-time employees are entitled to 80 hours (or 10 days) and part-time employees are entitled to the typical number of hours that they work in a typical two-week period. For paid family leave, all employees that have been employed at least 30 days may benefit.

##### **Do gig economy and other self-employed workers receive the credit?**

Yes. The legislation ensures that self-employed and gig economy workers receive the credit, even though they do not technically receive leave benefits under the paid sick and family leave mandates. It provides a refundable income tax credit in an amount of what self-employed workers would have received if they had been an employee receiving paid leave benefits pursuant to the mandates. For a given day that a self-employed worker could not work, they can claim a "rough justice" tax credit in the amount of their average daily self-employment income for the year. Individuals can reduce their estimated quarterly tax payments in anticipation of this credit.

#### **Types of Employers**

##### **What does the small business size limitation apply to?**

Both the paid sick leave and the paid family leave mandates apply to employers with fewer than 500 employees. Therefore, the credit is only available to employers with fewer than 500 employees.

##### **Do nonprofit employers benefit from the credit even though they are tax-exempt?**

Yes, nonprofit employers will still benefit from the credit because it is a credit against payroll taxes, which both nonprofit and for-profit employers pay.

##### **Do governmental employers benefit from the credit?**

No, governmental employers are ineligible for the credit. They are still subject to the employer mandate.

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