

# The Payroll Tax Credit in the Federal Families First Coronavirus Response Act

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While last week's [Federal Families First Coronavirus Response Act](#) will require employers to provide paid sick leave and expand the scope of the Family and Medical Leave Act during the COVID-19 pandemic, it also is going to provide financial relief for businesses to help cover costs associated with the act.

The act provides for payroll tax credits that can be claimed on the employer's quarterly Form 941. The payroll tax credit is refundable, if it exceeds the amount the employer owes in payroll taxes.

The payroll tax credit should result in an employer receiving a credit for up to 100% of the qualified leave payments, but is subject to these limitations

If an employee is taking time off to care for themselves the credit is limited to \$511 per day (\$5,110 total).

If the employee is taking time off to care for another individual, or for a minor whose school is closed, the credit is limited to \$200 per day (\$2,000 total).

If an employee is on paid family and medical leave under the act the credit is limited to \$200 per day (\$10,000 total).

An employer is also entitled to claim an additional tax credit with respect to the health insurance expense attributable to the employee receiving the qualified leave payment. The amount of this tax credit is determined based on the cost of maintaining the health insurance coverage for the employee, during the qualified leave period.

Here is how the payroll withholding process typically works. An employer withholds federal income taxes as well as Social Security and Medicare taxes from their employees' paychecks. The employer then deposits these withholdings, along with the employer-paid portion of the Social Security and Medicare taxes, with the IRS, on the employer's next regular deposit date. Form 941 is filed by the employer on a quarterly basis to report all compensation, withholdings, deposits, and credits from the prior quarter. Typically, any credits would be claimed when the employer files the Form 941 for the quarter. This would result in an employer not being able to receive the benefit of such credits for a significant period of time.

In an attempt to lessen the financial burden on the employer, instead of requiring an employer to deposit all payroll taxes with the IRS, the U.S. Department of Treasury is giving the employer the ability to retain an amount of payroll taxes equal to the qualifying leave payments. The payroll taxes available to be retained by the employer include not only the employer-paid portion of the Social Security and Medicare tax, but also any federal income taxes withheld and the employees' share of Social Security and Medicare tax withholdings

from all of its employees.

If the payroll taxes are not sufficient to cover the cost of the required leave payments, the employer will be able to file a request for an accelerated payment from the IRS. The IRS anticipates being able to process these requests within a two-week time frame.

As an example, if an employer paid \$5,000 in leave pay and would otherwise be required to deposit \$8,000 in payroll taxes, including taxes withheld from all of its employees, the employer would only be required to deposit \$3,000 on its next regular deposit date. If an employer paid \$10,000 in leave pay and was required to deposit \$8,000 in taxes, the employer could file a request to accelerate the credit for the remaining \$2,000.

Self-employed individuals, including independent contractors, will also be entitled to claim a similar credit against their income taxes relating to sick or family leave. These credits will be claimed on the self-employed individual's income tax return and will reduce estimated tax payments.

Additional guidance for the payroll tax credit is expected to be released by Treasury later this week.

If you have any questions on this, please [contact me](#) or anyone in the [Barley Snyder Tax Practice Group](#).

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