

Paid Leave Tax Credit to Receive COVID-19 Vaccine

Cross References

- FS-2021-09

The IRS has released additional guidance in the form of a facts sheet on the employer credits for paid leave to allow employees to take time off from work to receive a COVID-19 vaccine. The American Rescue Plan Act of 2021 (ARP) allows eligible employers to claim refundable tax credits that reimburse them for the cost of providing paid sick and family leave to their employees.

Eligible employers. An eligible employer is any business, including a tax-exempt organization, with fewer than 500 employees. An eligible employer also includes a governmental employer, other than the federal government and any agency or instrumentality of the federal government that is not an organization described in IRC section 501(c)(1). Self-employed individuals are eligible for similar tax credits.

Paid sick and family leave for which tax credits can be claimed. Eligible employers are entitled to tax credits for wages paid for leave taken by employees who are not able to work or telework due to reasons related to COVID-19, including leave taken to receive COVID-19 vaccinations or to recover from any injury, disability, illness or condition related to the vaccinations. These tax credits are available for wages paid for leave from April 1, 2021, through September 30, 2021.

The amount of the tax credits and how they are calculated. The paid leave credits under the ARP are tax credits against the employer's share of the Medicare tax. The tax credits are refundable, which means that the employer is entitled to payment of the full amount of the credits if it exceeds the employer's share of the Medicare tax.

The tax credit for paid sick leave wages is equal to the sick leave wages paid for COVID-19 related reasons for up to two weeks (80 hours), limited to \$511 per day and \$5,110 in the aggregate, at 100% of the employee's regular rate of pay. The tax credit for paid family leave wages is equal to the family leave wages paid for up to twelve weeks, limited to \$200 per day and \$12,000 in the aggregate, at two-thirds of the employee's regular rate of pay. The amount of these tax credits is increased by allocable health plan expenses and contributions for certain collectively bargained benefits, as well as the employer's share of Social Security and Medicare taxes paid on the wages (up to the respective daily and total caps).

Claiming the credit. Eligible employers may claim tax credits for sick and family leave paid to employees, including leave taken to receive or recover from COVID-19 vaccinations, for leave from April 1, 2021, through September 30, 2021.

Eligible employers report their total paid sick and family leave wages (plus the eligible health plan expenses and collectively bargained contributions and the eligible employer's

share of Social Security and Medicare taxes on the paid leave wages) for each quarter on their federal employment tax return, such as Form 941, *Employer's Quarterly Federal Tax Return*.

In anticipation of claiming the credits on the Form 941, eligible employers can keep the federal employment taxes that they otherwise would have deposited, including federal income tax withheld from employees, the employees' share of Social Security and Medicare taxes and the eligible employer's share of Social Security and Medicare taxes with respect to all employees up to the amount of credit for which they are eligible. The Form 941 instructions explain how to reflect the reduced liabilities for the quarter related to the deposit schedule.

If an eligible employer does not have enough federal employment taxes set aside for deposit to cover amounts provided as paid sick and family leave wages (plus the eligible health plan expenses and collectively bargained contributions and the eligible employer's share of Social Security and Medicare taxes on the paid leave wages), the eligible employer may request an advance of the credits by filing Form 7200, *Advance Payment of Employer Credits Due to COVID-19*. The eligible employer will account for the amounts received as an advance when it files its Form 941 for the relevant quarter.

Self-employed individuals may claim comparable tax credits on their individual Form 1040, *U.S. Individual Income Tax Return*.