

Tax Treatment of Paid Family Leave Benefits

State	Own Disability			Family Care		
	State Tax	Federal Tax	Social Security/ Medicare/ FICA	State Tax	Federal Tax	Social Security/ Medicare/ FICA
CA	No, except when considered a substitute for UI	No, except when considered a substitute for UI	No	No (Contributions post-tax)	Yes (Contributions deductible)	No
NJ	Employer Portion: Yes/ Employee Portion: No	Employer Portion: Yes/ Employee Portion: No	FICA on employer portion, not on employee portion	No (Contributions post-tax)	Yes (Contributions deductible)	No
RI	No	No	No	Yes (Contributions deductible)	Yes (Contributions deductible)	No
H.196 (as passed House General)	No ¹	No	No	Yes ²	Yes (Contributions deductible)	No
Unemployment Insurance	N/A	N/A	N/A	Yes	Yes	No
Workers' Compensation	No	No	No	N/A	N/A	N/A

¹ Includes benefits paid in relation to the employee's own serious illness, and possibly leave related to an employee's pregnancy if it is taken because of a pregnancy related disability.

² Includes benefits paid in relation to leave during pregnancy, for bonding with a new child, or to care for a seriously ill relative.

Answers to Questions Regarding H.196

Are the Contributions for Paid Family Leave Benefits Pre-Tax or Post-Tax?

- The IRS has ruled in relation to California that employee contributions to a family leave program are deductible as a state income tax. State income taxes are paid with post-tax dollars; therefore, the employee contributions are paid from post-tax dollars.
 - Contributions are deductible for taxpayers who itemize. *See* IRS Memorandum Regarding California Paid Family Leave, June 1, 2005, available at <https://www.irs.gov/pub/irs-wd/0630017.pdf>.

Would an employer be required to pay FICA on the benefits received by an employee?

- FICA is due on wages paid by an employer, because the Family Leave Insurance benefits would not be paid by the employer under H.196 the employer would not be required to pay FICA in relation to the benefits received by an employee.

Would an employee be required to pay Social Security and Medicare tax on any Family Leave Insurance benefits received under H.196?

- No, the benefits are in the nature of unemployment and disability benefits, and not of wages from an employer. Therefore, Social Security and Medicare taxes would not apply

Can Legislators use Family Leave Insurance Benefits under H.196?

- Yes, if the Legislator meets the eligibility requirements. (i.e. is taking leave for a covered purpose, has been employed in Vermont for at least 6 of the previous 12 months, and submits a complete application and adequate documentation of the reason for the leave to the Commissioner)

Who would be required to pay for benefits but not be permitted to receive them?

- Individuals that have been employed in Vermont for fewer than 6 months.

Would individuals that are employed in Vermont but reside outside the State be permitted to receive Family Leave Insurance benefits under H.196?

- Yes. To be eligible to use benefits, H.196 requires an individual to have been employed in Vermont and, therefore, contributing to the Paid Family Leave Fund for at least six months. There is no residency requirement.