

**TAX CREDIT PROVISIONS IN FAMILIES FIRST CORONAVIRUS RESPONSE ACT**  
**PUB. LAW 116-127 (H.R. 6201)**

**DIVISION G: TAX CREDITS FOR PAID SICK AND PAID FAMILY AND MEDICAL LEAVE**

**Payroll Credit for Required Emergency Paid Sick Leave. Division G, Sec. 7001.**

- 100% tax credit applied against I.R.C. § 3111(a) (Old-age, survivors, and disability insurance tax (OASDI)) or I.R.C. § 3221(a) (tier 1 railroad retirement tax) for required sick leave wages paid
- \$200/day max per employee for paid sick leave or \$511/day for COVID-19 self-isolation, receiving medical diagnosis or care, complying with public official or health care provider recommendation not to report to work
- Limit on number of days for sick leave taken in any calendar quarter: equal to or less than 10 over total number of days in all preceding calendar quarters
- Reduced by other existing credits
  - Veterans and small business research expenses that are already allowed against OASDI taxes. I.R.C. § 3111(e) and (f).
  - No credit allowed for wages against which an employer is already allowed a credit for paid family and medical leave. I.R.C. § 45S.
- Credit is nonrefundable
- Credit is increased by employer's health plan expenses allocable to qualified sick leave wages.
  - Qualified health plan expenses are amounts paid by employers to provide and maintain a group health plan, but only to the extent excluded from gross income of employees. See, I.R.C. § 106(a) (in general, gross income of an employee does not include employer-provided coverage under an accident or health plan.).
- Credit is added back to employer's gross income for income tax purposes.
  - Wages used to determine emergency sick leave credit cannot be counted to determine existing employer credit for paid family and medical leave under I.R.C. § 45S
- Employer may elect not to follow section by applying to Treasury.
- State and local government employers are not allowed to take the credit.
- Applies only to wages paid during period beginning on date selected by Treasury, during 15-day period starting on date of enactment and ending on Dec. 31, 2020.
- Treasury required to adopt regulations.
- Appropriation to federal old-age and survivors insurance trust fund to pay for credit.

**Credit for Sick Leave for Self-Employed. Division G, Sec. 7002.**

- 100% tax credit applied against self-employment tax. I.R.C., subtitle A.
- Credit for individuals who regularly carry on trade or business and who would be entitled to receive emergency sick leave benefits if they were an employee of an employer (other than themselves).
- Amount of credit is number of days individual is unable to perform trade or business multiplied by the lesser of:

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- \$200 or \$511 for any day of sick leave for COVID-19 self-isolation, receiving medical diagnosis or care, complying with public official or health care provider recommendation not to report to work, or
- 67% or 100% of average daily self-employment income for any day of sick leave for COVID-19 self-isolation, receiving medical diagnosis or care, complying with public official or health care provider recommendation not to report to work .
  - Average daily self-employment income for taxable year is net earnings for taxable year divided by 260.
- Credit is refundable; treated as a refund.
- If self-employed individual received wages or railroad compensation paid by an employer as required emergency paid sick leave, the self-employment tax credit will be reduced (not below zero) to the extent amount of emergency sick leave exceeds \$2,000 or \$5,110 for COVID-19-related needs.
- Applies only to wages paid during period beginning on date selected by Treasury, during 15-day period starting on date of enactment and ending on Dec. 31, 2020.
- Treasury required to adopt regulations.

**Payroll Credit for Paid Family Leave. Division G, Sec. 7003.**

- 100% tax credit against I.R.C. § 3111(a) (Old-age, survivors, and disability insurance tax (OASDI)) or I.R.C. § 3221(a) (tier 1 railroad retirement tax) for required family leave wages paid.
- \$200/day; \$10,000 max for all calendar quarters.
- Credit is nonrefundable.
- Reduced by other credits:
  - Existing veterans and small business research expenses that are already allowed against OASDI taxes. I.R.C. § 3111(e) and (f).
  - New emergency paid sick leave credit under Sec. 7001 of act.
- Credit is increased by employer's health plan expenses allocable to qualified family leave wages.
  - Qualified health plan expenses are amounts paid by employers to provide and maintain a group health plan, but only to the extent excluded from gross income of employees. See, I.R.C. § 106(a) (in general, gross income of an employee does not include employer-provided coverage under an accident or health plan.).
- Credit is added back to employer's gross income for income tax purposes.
  - Wages used to determine emergency sick leave credit cannot be counted to determine existing employer credit for paid family and medical leave under I.R.C. § 45S.
- Employer may elect not to follow section by applying to Treasury.
- State and local government employers are not allowed to take the credit
- Applies only to wages paid during period beginning on date selected by Treasury, during 15-day period starting on date of enactment and ending on Dec. 31, 2020.

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- Treasury required to adopt regulations.
- Appropriation to federal old-age and survivors insurance trust fund to pay for credit.

**Credit for Family Leave for Self-Employed.** Division G, Sec. 7004.

- 100% tax credit applied against self-employment tax. I.R.C., subtitle A.
- Credit for individuals who regularly carry on trade or business and who would be entitled to receive emergency family leave benefits if they were an employee of an employer (other than themselves).
- Amount of credit is number of days (not to exceed 50 days) during taxable year that individual is unable to perform trade or business multiplied by the lesser of:
  - 67% of average daily self-employment income for taxable year (net earnings for taxable year divided by 260); or
  - \$200.
- Credit is refundable; treated as a refund.
- If self-employed individual received wages or railroad compensation paid by an employer as required emergency paid sick leave, the self-employment tax credit will be reduced (not below zero) to the amount of employer-paid sick leave benefits received that exceeds \$10,000.
- Applies only to wages paid during period beginning on date selected by Treasury, during 15-day period starting on date of enactment and ending on Dec. 31, 2020.
- Treasury required to adopt regulations.

**Special Rule for Tax on Employers.** Division G, Sec. 7005.

- Wages paid as emergency paid sick leave or emergency family and medical leave are not considered wages subject to old-age, survivors, and disability insurance (OASDI).
- Employer credits allowed for emergency paid sick leave or emergency family and medical leave are both increased by amount of hospital insurance taxes paid on qualified sick leave wages or qualified family leave wages. See, I.R.C. § 3111(b).
  - Credit is added back to employer's gross income for income tax purposes.
    - Wages used to determine emergency sick leave credit cannot be counted to determine existing employer credit for paid family and medical leave under I.R.C. § 45S.