



Jones, Nale & Mattingly PLC

Tax Credits for Paid Sick and Paid Family and Medical Leave

Tax credits for COVID-19 related pay sunset on December 31, 2020.

Payroll tax credit for required paid family leave

Eligibility	Private employers with 500 or fewer employees required to provide COVID-19 related paid leave are eligible for a 100 percent refundable payroll tax credit on the wages paid for leave.
How	The tax credits would be administered by the IRS and be creditable against employer-side payroll tax liability, with any excess refunded to the employer.
Amount	<p>Credit is equal to 100% of wages up to the limit of either \$200 or \$511 plus medicare tax. Social security tax is not charged to employer or employee for sick paid leave.</p> <p>The credit would apply against the employer portion of Sec. 3111(a) old age, survivors, and disability insurance (OASDI) taxes or Sec. 3221(a) Tier 1 Railroad Retirement Act excise taxes. The credit is generally available for up to \$200 in wages for each day an employee receives qualified family leave wages. A maximum of \$10,000 in wages per employee would be eligible for the credit. The amount of the credit is increased by the amount of the Sec. 3111(b) Medicare tax imposed on the qualified family leave wages for which credit is allowed.</p>
Tax	If an employer claims the credit, the employer's gross income will be increased by the amount of the credit (meaning the credit is not taken into account for purposes of determining any amount allowable as a payroll tax deduction, deduction for qualified family leave wages, or deduction for health plan expenses), and no credit will be allowed for wages for which a Sec. 45S family and medical leave credit is claimed. The credit would not apply to the federal government, the government of any state or any subdivision of a state, or any agencies or instrumentalities of these entities. Employers also could elect not to apply the new provision for any calendar quarter.
Exclusion	The credit would not apply to the U.S. government, the government of any state or any subdivision of a state, or any agencies or instrumentalities of the foregoing. Employers can elect not to apply the new provision for any calendar quarter.
Self-employed	Self-employed individuals: Eligible self-employed individuals would be eligible for a refundable credit against income tax for qualified family leave equivalent amounts. An eligible self-employed individual is an individual who regularly carries on any trade or business (as defined in Sec. 1402) and would be entitled to receive paid leave under the Emergency Family and Medical Leave Expansion Act if the individual were an employee.
Railroad	Wages paid under the Emergency Family and Medical Leave Expansion Act are not considered wages for purposes of the Sec. 3111(a) OASDI tax or the Sec. 3221(a) Railroad Retirement Act excise taxes.



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Tax Credits for Paid Sick and Paid Family and Medical Leave

Tax credits for COVID-19 related pay sunset on December 31, 2020.

Payroll tax credit for required paid sick leave

Eligibility	Subject to certain limitations, the bill provides an employer payroll tax credit that equals 100% of the qualified sick leave wages paid by the employer under the portion of the bill known as the Emergency Paid Sick Leave Act (Division E of the bill). The Emergency Paid Sick Leave Act requires employers with fewer than 500 employees to provide up to 80 hours of paid sick time through the end of this year if the employee is unable to work due to being quarantined or self-quarantined or having COVID-19 or because the employee is caring for someone who is quarantined or self-quarantined or has COVID-19 or if the employee is caring for children whose school has been closed because of COVID-19 precautions. (Employers with fewer than 50 employees can be exempted from the requirement.)
Amount	The credit is effective for sick leave wages paid starting on a date within 15 days of enactment (to be designated by Treasury) and through Dec. 31, 2020. The credit will apply against Sec. 3111(a) OASDI taxes or Sec. 3221(a) Tier 1 Railroad Retirement Act excise taxes. The credit is generally available for up to \$511 in wages (for workers who are quarantined or self-quarantined or who have COVID-19) and wages of up to \$200 for other workers for each day an employee receives qualified sick leave pay. The credit would be available for up to 10 days per calendar quarter. The amount of the credit is increased by the amount of the Sec. 3111(b) Medicare tax imposed on the qualified sick leave wages for which credit is allowed.
Tax	To prevent double benefits, employers' gross income will be increased by the amount of the credit (meaning the credit is not taken into account for purposes of determining any amount allowable as a payroll tax deduction, deduction for qualified sick leave wages, or deduction for health plan expenses), and no credit will be allowed for wages for which a Sec. 455 family and medical leave credit is claimed. The credit would not apply to the federal government, the government of any state or any subdivision of a state, or any agencies or instrumentalities of these entities. Employers also could elect not to apply the new provision for any calendar quarter.
Health Plan Expenses	The credit can be increased by certain qualified health plan expenses of the employer that are allocable to qualified sick leave wages for which the credit is allowed.
Self-employed	The bill also provides eligible self-employed taxpayers with a refundable credit against income tax for qualified sick leave equivalent amounts. An eligible self-employed individual is an individual who regularly carries on any trade or business (as defined in Sec. 1402) and would be entitled to receive paid leave under the Emergency Paid Sick Leave Act if the individual were an employee.
Railroad	Wages paid under the Emergency Paid Sick Leave Act are not considered wages for purposes of the Sec. 3111(a) OASDI tax or the Sec. 3221(a) Railroad Retirement Act excise taxes.