



Families First Coronavirus Response Act

How should an employer substantiate eligibility for tax credits?

The IRS recently released FAQ's on documentation required when an employee requests paid leave under the Families First Coronavirus Act (FFCRA). A link to the Q&A is provided below, and this topic is addressed starting with question #44.

What information should an eligible employer receive from an employee and maintain to substantiate eligibility for the sick leave or family leave credits?

An employer will substantiate eligibility for the sick or family leave credits if the employer receives a written request for the leave from the employee. The written request must include:

- Employee's name
- The date(s) of the requested leave
- A statement of COVID-19 related reason for the leave
- Written support for the reason for the leave
- Statement that employee is unable to work, including telework

Quarantine Order or self-quarantine advice:

Employee statement should include the name of the governmental entity (federal, state, local) who ordered the quarantine of the name of the health care provider advising self-quarantine. If the person subject to quarantine or advise of self-quarantine is not the employee, the statement needs to provide the person's name and relationship to the employee.

Leave due to school closing or childcare provider unavailable:

Employee statement should include the name and age of the child(ren) to be cared for, the child(ren) must be 14* years of age or younger, the name of the school or childcare provider.

A statement that no other person will be providing care for the child(ren) during the period the employee is receiving emergency family medical leave. *A statement of inability to work or telework because of the need to provide care for a child 14-17 during the daylight hours and the special circumstances that exist.

What additional records should be retained to substantiate eligibility for sick or family leave credit?

Employer should create and maintain records that include:

1. Documentation to show how the amount of the sick or family leave was determined, including records of work, telework
2. Documentation relative to how the employer determined the amount of qualified health plan expenses
3. Copies of any completed Forms 7200, Advance of Employer Credits Due to COVID-19 (draft form released on 4/1/2020)
4. Copies of Forms 941, Employer's Quarterly Federal Tax Return
5. Employers that use third party payers, retain records of information provided to the third-party payor regarding the employer's entitlement to the credit claimed on Form 941.

An eligible employer should retain all records of employment taxes for at least 4 years after the date the tax becomes due or is paid, whichever comes later. All records should be available for IRS review.

The employer is not required to provide leave if materials sufficient to support the applicable tax credit have not been provided. Employers should determine their process and consult counsel.

The IRS Q&A document can be found on their [website](#).