

Family FAQs related to the Families First Coronavirus Response Act (FFCRA)

Q: What Paid Sick Leave is required by FFCRA?

A: FFCRA creates an emergency paid leave provision for the following reasons specifically related to the COVID-19 outbreak:

An employer is REQUIRED to provide up to two weeks (80 hours maximum) of paid sick leave at an employee's regular weekly pay if your nanny or other worker:

- Has a diagnosis of COVID-19;
- Is quarantined at the instruction of a health care professional

An employer is REQUIRED to provide up to two weeks of paid sick leave at $\frac{2}{3}$ of an employee's regular weekly pay if your nanny or other worker:

- Is caring for another person who has or is quarantined for COVID-19;
- Is caring for their child or other dependent who is unable to care for themselves related to the closure of a school or other care facility.

Employers who violate this act and do not pay for sick time can be prosecuted under Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) as a Wage and Hour violation. The employee may file an unpaid wage claim with their state's Department of Labor to recover the unpaid wages and damages.

Q: What Paid Family Leave is required by FFCRA?

A: Employers are also required to provide up to 12 weeks of family leave, with 10 weeks paid, to employees who must:

- Adhere to a requirement or recommendation to quarantine due to exposure to or symptoms of coronavirus
- Care for an at-risk family member who is adhering to a requirement or recommendation to quarantine due to exposure to or symptoms of Coronavirus
- Care for a child of the employee if the child's school or place of care has been closed, or the child-care provider is unavailable, due to a Coronavirus.

After two weeks of unpaid leave, the employees must be paid no less than $\frac{2}{3}$ of their regular pay. Like with the paid leave provision, employers can receive reimbursement via a refundable tax credit equal to 100 percent of qualified paid sick leave wages paid by an employer, to be applied against Federal employment taxes (FICA). Employees who meet the requirements of the sick leave provision detailed above can use the sick leave to cover the two weeks unpaid at the start of the paid family medical leave.



Q: How will these credits likely get back into the hands of employers?

A: FFCRA includes a refundable tax credit to completely offset an employer's cost of providing mandatory paid sick leave and paid family leave. FFCRA is intended to minimize the cash flow impact on employers so they can keep employees rather than reduce staff through furloughs or layoffs. We are awaiting IRS guidance on how employers can get reimbursed as quickly as possible, but employers should feel confident that they will be able to claim the credit (thus reducing their tax payments) at the time they file and pay their federal tax liabilities.

Q: How can families that were off the books in 2019 fix that?

A: Employers can always go back to file and pay taxes for prior years. You will need to obtain an Federal Employer Identification Number (FEIN), open state tax accounts, complete new hire reporting, file and pay Federal taxes (Form 1040 Schedule H), State unemployment taxes, other State and Local taxes (if applicable), and possibly pay penalties and interest. HomeWork Solutions can help you get caught up on your taxes, and they are currently offering to do so at a steep discount, and for free if you sign up for their service going forward.

Q: What about sick leave up to this point, prior to 4/1?

A: Payment for leave taken prior to April 1, 2020 is completely at the discretion of the employer, subject to terms of a work agreement. FFCRA only applies to leave taken after April 1st, and all active employees as of that date are eligible for required benefits.

Q: If a nanny is furloughed, does the family have to pay out her accrued vacation time?

A: No, accrued leave does not have to be paid out during a furlough. However, an employer risks damaging a relationship with their employee by refusing to approve the use of paid leave that the employee has earned.

Q: How is the FFCRA leave payment taxed for the employer and employee?

A: Paid Leave under FFCRA will be taxable income to the employee and normal taxes apply. Employers will be exempt from the Social Security portion of FICA, and the credit for wages paid for mandatory FFCRA leave will reimburse the employer for the Medicare portion of FICA

