

Emergency Paid Leave Tax Credits and the American Rescue Plan

On March 11, 2021, President Biden signed into law the American Rescue Plan (ARP). Among other provisions, the ARP provides tax credits to certain employers to cover the costs of providing COVID-19 related leave. Here's what you need to know about those credits.

Which employers can claim the credits?

Paid leave tax credits under the ARP are available to private sector employers with fewer than 500 employees and to state and local governments. Self-employed workers are eligible for related credits. Separately, federal employees have important rights to COVID-19 related leave under the ARP.

What needs do the credits cover?

The ARP provides two separate, but related tax credits: one for emergency paid sick leave and one for emergency paid family leave. Both credits cover leaves taken when workers:

1. have coronavirus symptoms and are seeking a medical diagnosis;
2. are subject to a federal, state, or local quarantine or isolation order related to coronavirus;
3. have been advised to self-quarantine by a health care provider due to coronavirus-related concerns;
4. need to care for their child because their child's school or childcare has been closed or childcare is unavailable due to coronavirus;
5. are caring for someone who is subject to a federal, state, or local quarantine or isolation order related to coronavirus, or who has been advised by a health care provider to self-quarantine due to concerns related to coronavirus;
6. are seeking or waiting for results of a coronavirus test or diagnosis due to exposure or at their employer's request (even if they are not symptomatic); or
7. are obtaining or recovering from a coronavirus vaccination.

Leave provided by employers for these reasons must meet certain requirements under the law to qualify for the credits.

When do the credits begin?

The ARP tax credits cover leaves taken between April 1 and September 30, 2021. Tax credits under other legislation are available to private sector employers with fewer than 500 employees (but not state or local governments) for certain kinds of COVID-19 related leave taken between January 1 and March 31, 2021. You can learn more about these credits, which are subject to different rules than the credits under the ARP, [here](#).

How much leave time do the credits cover?

- The emergency paid sick leave credit covers up to 80 hours of qualifying leave for full-time employees (or two forty-hour weeks) and a pro-rated amount for part-time employees.
- The emergency paid family leave credit covers up to 12 weeks of qualifying leave.
- Employers can receive credits for employees taking leave under *both* credits, though not at the same time; therefore, in total, employers can receive credits to cover leaves for up to 14 weeks of leave per employee.

How much money do the credits provide?

- **Emergency paid sick leave:** per employee, employers can receive credits for wages paid to employees for qualifying leaves as follows:
 - For employees' own health, diagnosis, or vaccination, for 100% of the employee's regular rate of pay (or the applicable minimum wage, whichever is higher) up to \$511 per day (\$5,110 total)
 - For employees' covered caregiving needs, for 67% of the employee's regular rate of pay (or the applicable minimum wage, whichever is higher) up to \$200 per day (\$2,000 total)
- **Emergency paid family leave:** per employee, employers can receive credits for wages paid to employees for qualifying leaves, regardless of the reason for which leave is taken, for two-thirds of the employee's regular rate of pay (or the applicable minimum wage, whichever is higher) up to \$200 per day (\$12,000 total)
- **For both credits:** In addition to the amounts specified above, credits may be available for certain health plan expenses and certain payments required under collective bargaining agreements associated with qualifying leave wages.

What tax are the credits against?

The paid leave tax credits under the ARP are taken against the Medicare Hospital Insurance tax, a tax employers (including, generally, non-profits and state and local governments) pay on their employees' wages.

What happens if an employer qualifies for more in credits than they owe?

The paid leave tax credits under the ARP are refundable. This means that if employers qualify for more in credits than they would owe in covered taxes, they can get back the additional money through a refund from the IRS.

What happens if employers need the reimbursement before filing their taxes?

The paid leave tax credits under the ARP are advanceable. This means that, through a process the IRS will specify, employers will be able to get the money back early (in advance), before they would file and pay their taxes.

Does the ARP give workers the right to take leave from work?

No, except for some employees of the [federal government](#). Previously, a federal law called the Families First Coronavirus Response Act gave many employees, including private sector employees whose employers have fewer than 500 employees and government employees, the right to paid leave from work for COVID-19 related needs; the costs of this leave were covered by the federal government through tax credits. However, these employee rights expired on December 31, 2020 and have not been reinstated. Therefore, federal law does not currently provide a specific right to time off work for COVID-19 related needs, except for certain federal employees. However, workers may have relevant rights under other federal laws, like the Family and Medical Leave Act, or under state or local laws.

Please note that this fact sheet does not represent an exhaustive overview of the law described, and it does not constitute legal or tax advice. It is possible that additional provisions not described in this fact sheet may apply to your specific circumstances.