

Special Issues for Employees

These updated FAQs were released to the public in [Fact Sheet 2022-16](#) [PDF](#), March 3, 2022.

Note that the American Rescue Plan Act of 2021, enacted March 11, 2021, amended and extended the tax credits (and the availability of advance payments of the tax credits) for paid sick and family leave for wages paid with respect to the period beginning April 1, 2021, and ending on September 30, 2021. These FAQs do not currently reflect the changes made by the American Rescue Plan Act; however, please continue to check IRS.gov for any updates related to the change in law.

Special Issues for Employees

57. Are qualified sick leave wages and qualified family leave wages taxable to employees? (Updated January 28, 2021)

Yes, generally. Under sections 7001(c) and 7003(c) of the FFCRA, qualified leave wages are wages (as defined in section 3121(a) of the Internal Revenue Code (the “Code”) determined without regard to section 3121(b)(1)-(22) of the Code and without regard to section 7005(a) of the FFCRA), and compensation (as defined in section 3231(e) of the Code determined without regard to the exclusions under section 3231(e)(1) of the Code and without regard to section 7005(a) of the FFCRA), so the employee must pay social security and Medicare taxes (and for railroad employees, Tier II of the Railroad Retirement Tax Act tax), unless the qualified leave wages are subject to an exclusion under section 3121(b)(1)-(22) of the Code or exclusions under section 3231(e)(1) of the Code. In addition, wages are generally compensation for services subject to income tax under section 61 of the Code and federal income tax withholding under section 3402 of the Code unless an exception applies. The FFCRA did not include an exception for qualified leave wages from income.

58. Are qualified sick leave wages and qualified family leave wages excluded from gross income as “qualified disaster relief payments”? (Updated January 28, 2021)

No. Section 139 of the Internal Revenue Code (the “Code”) excludes from a taxpayer’s gross income certain payments to individuals to reimburse or pay for expenses related to a qualified disaster (“qualified disaster relief payments”). Although the COVID-19 outbreak is a “qualified disaster” for purposes of section 139 the Code (see below), qualified leave wages are not excludible qualified disaster relief payments, because qualified leave wages are intended to replace wages or compensation that an individual would otherwise earn, rather than to serve as payments to offset any particular expenses that an individual would incur due to COVID-19.

Section 139(c)(2) of the Code provides that for purposes of section 139 of the Code, the term “qualified disaster” includes a federally declared disaster, as defined by 165(i)(5)(A) of the Code. The COVID-19 pandemic is a “federally declared disaster,” as defined by section 165(i)(5)(A) of the Code. On March 13, 2020, the President of the United States issued a Proclamation declaring a national emergency concerning the Novel Coronavirus Disease (COVID-19) outbreak, stating that the ongoing COVID-19 pandemic warrants an emergency determination under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 – 5207. A “qualified disaster relief payment” is defined by section 139(b) of the Code to include any amount paid to or for the benefit of an individual to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster. Qualified disaster relief payments do not include income replacements such as sick leave or other paid time off paid by an employer.

59. Can an employee receive both “qualified sick leave wages” and “qualified family leave wages”? (Updated January 28, 2021)

Yes, but at different times. Qualified sick leave wages are available for up to 80 hours during which an employee cannot work or telework for any of six reasons related to COVID-19, including because the employee must care for his or her child whose school or place of care is closed, or whose child care provider is unavailable, for reasons related to COVID-19. By contrast, qualified family leave wages are available only because the employee must care for his or her child whose school or place of care is closed, or whose child care provider is unavailable, for reasons related to COVID-19, and only after an employee has been unable to work or telework for this reason for 80 hours.

Example: Your child-care provider is unavailable indefinitely due to the COVID-19 outbreak, leaving you unable to work or telework to care for your child. For up to the first 80 hours of any period of leave to care for your child, you are eligible for qualified sick leave wages, up to \$200 per day and \$2,000 in the aggregate. After that, you are eligible for qualified family leave wages for up to ten weeks of additional leave you need, up to \$200 per day and \$10,000 in the aggregate.

Specific Provisions Related to Self-Employed Individuals

60. Who is an eligible self-employed individual for purposes of the qualified sick leave equivalent credit and the qualified family leave equivalent credit? (Updated January 28, 2021)

An eligible self-employed individual is defined as an individual who regularly carries on any trade or business within the meaning of section 1402 of the Internal Revenue Code, and would be eligible to receive qualified sick leave wages or qualified family leave wages under the EPSLA or Expanded FMLA if the individual were an employee of an Eligible Employer (other than himself or herself) that is subject to the requirements of the EPSLA or Expanded FMLA.

Eligible self-employed individuals are allowed an income tax credit to offset their federal self-employment tax for any taxable year equal to their “qualified sick leave equivalent amount” or “qualified family leave equivalent amount.”

60a. What individuals regularly carry on a trade or business for purposes of being an eligible self-employed individual for the qualified sick leave equivalent credit and the qualified family leave equivalent credit? (Added January 28, 2021)

An individual regularly carries on a trade or business for purposes of being an eligible self-employed individual for the qualified sick leave equivalent credit and/or the qualified family leave equivalent credit if he or she carries on a trade or business within the meaning of section 1402 of the Internal Revenue Code (the “Code”), or is a partner in a partnership carrying on a trade or business within the meaning of section 1402 of the Code. Section 1402(c) of the Code defines trade or business and includes exceptions to this standard for purposes of section 1402 of the Code.

61. How is the “qualified sick leave equivalent amount” for an eligible self-employed individual calculated? (Updated January 28, 2021)

For an eligible self-employed individual who is unable to work or telework because the individual:

1. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or
3. Is experiencing symptoms of COVID-19 and seeking a medical diagnosis,

the qualified sick leave equivalent amount is equal to the number of days during the taxable year that the individual cannot perform services in any trade or business for one of the three above reasons, multiplied by the lesser of \$511 or 100 percent of the “average daily self-employment income” of the individual for the taxable year, or the prior taxable year.

For an eligible self-employed individual who is unable to work or telework because the individual:

1. Is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
2. Is caring for a child if the child’s school or place of care has been closed, or child care provider is unavailable due to COVID-19 precautions; or
3. Is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor,

the qualified sick leave equivalent amount is equal to the number of days during the taxable year that the individual cannot perform services in any trade or business for one of the three above reasons, multiplied by the lesser of \$200 or 67 percent of the “average daily self-employment income” of the individual for the taxable year, or the prior taxable year.

In either case, the maximum number of days a self-employed individual may take into account in determining the qualified sick leave equivalent amount is ten.

Note: The only days that may be taken into account in a taxable year in determining the qualified sick leave equivalent amount for the year are days occurring during the year and during the period beginning on April 1, 2020, and ending on March 31, 2021.

62. How is the “average daily self-employment income” for an eligible self-employed individual calculated? (Updated January 28, 2021)

Average daily self-employment income is an amount equal to the net earnings from self-employment for the taxable year, or prior taxable year, divided by 260. A taxpayer’s net earnings from self-employment are based on the gross income that he or she derives from the taxpayer’s trade or business minus ordinary and necessary trade or business expenses.

63. How is the “qualified family leave equivalent amount” for an eligible self-employed individual calculated? (Updated January 28, 2021)

The qualified family leave equivalent amount with respect to an eligible self-employed individual is an amount equal to the number of days (up to 50) during the taxable year that the self-employed individual cannot perform services for which that individual would be entitled to paid family leave (if the individual were employed by an Eligible Employer (other than himself or herself)), multiplied by the lesser of two amounts: (1) \$200, or (2) 67 percent of the average daily self-employment income of the individual for the taxable year, or the prior taxable year.

64. Can a self-employed individual receive both qualified sick or family leave wages and qualified sick or family leave equivalent amounts? (Updated January 28, 2021).

Yes, but the qualified sick or family leave equivalent amounts are reduced by the qualified sick or family leave wages.

That is, if a self-employed individual is entitled to a refundable credit for a qualified sick leave equivalent amount under section 7002(a) of the FFCRA, and also receives qualified sick leave wages as an employee, section 7002(d)(3) of the FFCRA reduces the qualified sick leave equivalent amount for which the self-employed individual may claim a tax credit to the extent that the sum of the qualified sick leave equivalent amount described in section 7002(c) of the FFCRA and any qualified sick leave wages

under section 7001(b)(1) of the FFCRA, exceeds \$2,000 (or \$5,110 in the case of any day any portion of which is paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the EPSLA).

Similarly, if a self-employed individual is entitled to a refundable credit for a qualified family leave equivalent amount under section 7004(a) of the FFCRA, and also receives qualified family leave wages as an employee under the Expanded FMLA, section 7004(d)(3) of the FFCRA reduces the qualified family leave equivalent amount for which the self-employed individual may claim a tax credit to the extent that the sum of the qualified family leave equivalent amount described in section 7004(c) of the FFCRA and the qualified family leave wages under section 7003(b)(1) of the FFCRA, exceeds \$10,000.

Note: The COVID-related Tax Relief Act of 2020 extended the period during which Eligible Employers may provide paid leave for which they claim tax credits to include periods of leave taken between January 1, 2021, and March 31, 2021. Self-employed individuals entitled to refundable credits for a qualified sick or family leave equivalent amount for periods of leave taken between January 1, 2021 and March 31, 2021 will reduce the credit by any aggregate qualified sick or family leave wages that they received from their employers in both 2020 and 2021. If consideration of the aggregate qualified leave wages results in a \$0 qualified sick or family leave equivalent amount, the taxpayer will not be entitled to claim the qualified sick or family leave equivalent credit in 2021.

Example: In her capacity as an employee, Taxpayer A receives \$4000 in qualified sick leave wages, comprised of:

- \$3000 in qualified sick leave wages for reasons described in paragraphs (1), (2), or (3) of section 5102(a) of the EPSLA; and
- \$1000 in qualified sick leave wages for reasons described in paragraphs (4), (5), or (6) of the EPSLA.

In addition, in her capacity as a self-employed individual, Taxpayer A is eligible for a \$3300 qualified sick leave equivalent credit comprised of:

- \$2500 in qualified sick leave equivalent credits for reasons described in paragraphs (1), (2), or (3) of section 5102(a) of the EPSLA; and
- \$800 in qualified sick leave equivalent credits for reasons described in paragraphs (4), (5), or (6) of section 5102(a) of the EPSLA.

Taxpayer A must reduce the \$3300 qualified sick leave equivalent credit for which she is eligible by \$2190, which is comprised of:

- The excess of the qualified sick leave wages and qualified sick leave equivalent amounts for reasons described in paragraphs (1), (2), or (3) of section 5102(a) of the EPSLA over \$5110 (that is, \$390); plus
- The excess of the qualified sick leave wages and qualified sick leave equivalent amounts for reasons described in paragraphs (4), (5), or (6) of section 5102(a) of the EPSLA over \$2000 (that is, \$0); plus
- The remaining excess of the total leave credits to which Taxpayer A is entitled in her capacity as either an employee or a self-employed individual over \$5110 (that is, \$1800).

Accordingly, Taxpayer A may claim a qualified sick leave equivalent credit of \$1110.

Example: In his capacity as an employee, Taxpayer B receives \$6000 in qualified family leave wages. In addition, in his capacity as a self-employed individual, Taxpayer B is eligible for a \$4500 qualified family leave equivalent credit. Taxpayer B may claim a qualified family leave equivalent credit of \$4000, because he must reduce the qualified family leave equivalent amount to which he is entitled to the extent that the sum of the qualified family leave equivalent amount and his qualified family leave wages (that is, \$10,500) exceeds \$10,000 (that is, \$500).

Example: In his capacity as an employee, Taxpayer C receives \$4000 in qualified family leave wages in 2020. In addition, also in 2020, in his capacity as a self-employed individual, Taxpayer C is eligible for a \$4500 qualified family leave equivalent credit. In 2020, Taxpayer C may claim a qualified family leave equivalent credit of \$4500, because the total qualified family leave wages and qualified family leave equivalent credits to which he is entitled (that is, \$8,500) does not exceed \$10,000.

In the first quarter of 2021, Taxpayer C receives \$1000 in qualified family leave wages, and would be eligible for a \$1500 qualified family leave equivalent credit in his capacity as a self-employed individual, prior to applying any reduction. In 2021, Taxpayer C may claim a qualified family leave equivalent credit of \$500, because he must reduce the qualified family leave equivalent credit to which he is entitled for 2021 to the extent that the sum of the aggregate qualified family leave equivalent amount and his qualified family wages for 2020 and 2021 (that is, \$11,000) exceeds \$10,000 (that is, \$1000).

64a. Do self-employed individuals need to account for wages excluded under section 3121(b)(1)-(22) of the Internal Revenue Code (the “Code”), or compensation excluded under section 3231(e)(1) of the Code, when determining the amount by which to reduce their self-employed equivalent leave credit? (Added January 28, 2021)

Yes. Section 7002(d)(3) of the FFCRA reduces the qualified sick leave equivalent amount for which a self-employed individual may claim a tax credit to the extent that the sum of the qualified sick leave equivalent amount described in section 7002(c) of the FFCRA and any amounts described in section 7001(b)(1) of the FFCRA exceeds the applicable thresholds under section 5102(a) of the ESPLA. Similarly, section 7004(d)(3) of the FFCRA reduces the qualified family leave equivalent amount for which a self-employed individual may claim a tax credit to the extent that the sum of the qualified family leave amount described in section 7004(c) of the FFCRA and any amounts described in section 7003(b)(1) of the FFCRA exceeds \$10,000.

Sections 7001(b)(1) and 7003(b)(1) of the FFCRA describe the amounts of qualified sick leave wages and qualified family wages taken into account for purposes of the employer payroll tax credits for paid sick leave and paid family leave, respectively. Sections 7001(c) and 7003(c) of the FFCRA define these qualified leave wages as wages (as defined in section 3121(a) of the Internal Revenue Code (the “Code”) determined without regard to section 3121(b)(1)-(22) of the Code and without regard to section 7005(a) of the FFCRA), and compensation (as defined in section 3231(e) of the Code, determined without regard to the exclusions under section 3231(e)(1) of the Code and without regard to section 7005(a) of the FFCRA).

Therefore, when determining the amount by which to reduce their self-employed equivalent credits under sections 7002(d)(3) and 7004(d)(3) of the FFCRA, self-employed individuals should account for wages excluded under section 3121(b)(1)-(22) of the Code or compensation excluded under section 3231(e)(1) of the Code.

64b. Do self-employed taxpayers need to account for sick leave wages and family leave wages paid by government employers in determining their self-employment equivalent credit? (Added March 15, 2021)

No. The government of the United States, the government of any State or political subdivision thereof, or any agency or instrumentality of those governments (governmental employers) are not eligible to claim the tax credits under sections 7001 and 7003 of the FFCRA. Accordingly, any sick leave wages and family leave wages paid by the governmental employer are not taken into account to reduce the self-employed taxpayer's self-employment equivalent credits on Form 7202, Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals. If the governmental employer reported the sick leave wages or family leave wages in Box 14 of Form W-2 or a separate statement with Form W-2, the self-employed person should not take these reported leave wages into account when determining the amount by which to reduce his or her self-employment equivalent credits.

This rule does not apply to Tribal governments that are Eligible Employers permitted to claim the tax credits for sick leave wages and family leave wages paid to employees.

65. How does a self-employed individual claim the credits for qualified sick leave equivalent amounts or qualified family leave equivalent amounts? (Updated January 28, 2021)

The refundable credits are claimed on the self-employed individual's [Form 1040, U.S. Individual Income Tax Return](#) [PDF](#).

Self-employed individuals will claim tax credits for periods of leave taken between April 1, 2020 and December 31, 2020 on their 2020 Forms 1040 and will claim tax credits for periods of leave taken between January 1, 2021 and March 31, 2021 on their 2021 Forms 1040.

65a. How does a self-employed individual determine the sick and family leave equivalent tax credit that he or she may claim? (Added November 25, 2020)

A self-employed individual will determine the sick and family leave equivalent tax credit to which he or she is entitled by completing Form 7202, Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals. This form will be available during the fourth quarter of 2020 at irs.gov. To complete the Form 7202, self-employed individuals who are also employees will need any amount of qualified sick and family leave wages that their employers reported on the [Form W-2, Wage and Tax Statement](#) [PDF](#). For more information on the requirement for Eligible Employers to report the amount of qualified sick and family leave wages paid to employees on Form W-2, see [Notice 2020-54](#) [PDF](#).

65b. How does a self-employed individual elect to use prior year net earnings from self-employment income to determine average daily self-employment income for purposes of the credits for qualified sick leave equivalent amounts or qualified family leave equivalent amounts? (Added January 28, 2021)

A self-employed individual may elect to use prior year (rather than current year) net earnings from self-employment to determine his or her average daily self-employment income by indicating this election when filing his or her 2020 or 2021 Form 1040. See applicable instructions for the form for more information.

65c. If a self-employed individual who claimed the self-employed equivalent leave credit receives a Form W-2c from an employer reporting corrected qualified sick and/or family leave wages received for the period beginning April 1, 2020, and ending March 31, 2021, should the individual file an amended tax return? (added March 3, 2022)

It depends. If a self-employed individual who claimed the qualified leave equivalent credits for sick and/or family qualified leave amounts for the period beginning April 1, 2020, and ending March 31, 2021, receives a Form W-2c, Corrected Wage and Tax Statement, reporting corrected amounts of sick and/or family leave wages in Box 14 for this period, the individual will need to recalculate those credits on the appropriate Form 7202, Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals, using the corrected sick and/or family leave wage amounts and must file a Form 1040-X, Amended U.S. Individual Income Tax Return if the amount of the qualified leave equivalent credits changes.

If the self-employed individual receives a Form W-2c reporting corrected wages paid during the 2020 tax year, and claimed the self-employed equivalent leave credit for 2020, the individual must recalculate the credit on the 2020 Form 7202. If the amount of the qualified leave equivalent credit changes, the individual must file a Form 1040-X for 2020 with the corrected amounts from the Form 7202.

If the self-employed individual receives a Form W-2c reporting corrected wages paid during the 2020 tax year and claimed the qualified leave equivalent credit for the period beginning January 1, 2021, and ending March 31, 2021, from parts I and/or II of a 2021 Form 7202, the individual must recalculate the credit on the Form 7202. If the amount of the qualified leave equivalent credit has changed from the amount claimed on the individual's 2021 Form 1040, U.S. Individual Income Tax Return, the individual must file a Form 1040-X for 2021 with the corrected amounts from the Form 7202.

If the self-employed individual receives a Form W-2c reporting corrected wages paid during the period beginning January 1, 2021, and ending March 31, 2021, and claimed the self-employed equivalent leave credit for this period, the individual must recalculate the credit on the 2021 Form 7202. If the amount of the qualified leave equivalent credit changes, the individual must file a Form 1040-X for 2021 with the corrected amounts from the Form 7202.

66. How can a self-employed individual cover his or her qualified sick leave equivalent and qualified paid family leave equivalent amounts before filing his or her Form 1040? (updated November 25, 2020)

The self-employed individual may cover sick leave and family leave equivalents by taking into account the credit to which the individual is entitled and will claim on [Form 1040, U.S. Individual Income Tax Return](#) [PDF](#), in determining required estimated tax payments. This means that a self-employed individual can effectively reduce payments of estimated income taxes that the individual would otherwise be required to make if the individual was not entitled to the credit on the [Form 1040](#) [PDF](#).

Section 2302 of the CARES Act provides that self-employed individuals may defer the payment of 50 percent of the social security tax imposed under section 1401(a) of the Internal Revenue Code on net earnings from self-employment income for the period beginning on March 27, 2020 and ending December 31, 2020. Self-employed individuals may defer these taxes in addition to the credits for qualified sick leave equivalent amounts or qualified family leave equivalent amounts. Accordingly, if the self-employed individual is eligible for these credits, the individual should take into account these credits in addition to any amount of self-employment tax the individual plans to defer under section 2302 of the CARES Act in determining required estimated tax payments.

66a. Can an independent contractor who generally performs services for multiple clients as a nonemployee claim the tax credit with regard to the lost services due to COVID-19? (added November 25, 2020)

Yes. If an individual is an independent contractor who generally performs services for multiple clients as a nonemployee, he or she is self-employed and is eligible for the tax credits for days he or she is not able to work or telework for reasons related to COVID-19.

For more information on whether an individual is an independent contractor or an employee, and the tax consequences of either status, see [Self-Employed Individuals Tax Center](#).

66b. Can a partner in a partnership claim the tax credits? (added November 25, 2020)

Maybe. A partner in a partnership is a self-employed individual if the partner's distributive share constitutes net earnings from self-employment or if the partner receives guaranteed payments for his or her services. If the partner is a self-employed individual and is not able to work or telework for reasons related to COVID-19, the partner is eligible for the tax credits.

Generally, partners in a partnership (including members of a limited liability company (LLC) that is treated as a partnership for federal tax purposes) are considered to be self-employed, not employees, when performing services for the partnership.

66c. Can a self-employed individual use the Form 7200 to apply for an advance of the tax credits? (added November 25, 2020)

No. [Form 7200, Advance Payment of Employer Credits Due to COVID-19](#) [PDF](#), is only available for employers that file [Form 941, Employer's Quarterly Federal Tax Return](#) [PDF](#), or certain other employment tax returns. However, a self-employed individual may reduce payments of estimated income taxes equal to the credit to which the individual is entitled.

For more information about how a self-employed individual can reduce his or her estimated income taxes to cover a credit for qualified sick leave equivalent amounts and qualified family leave equivalent amounts, see "[How can a self-employed individual cover his or her qualified sick leave equivalent and qualified paid family leave equivalent amounts before filing his or her Form 1040?](#)"

67. Does an eligible self-employed individual who is allowed a credit under section 7002 of the FFCRA for the qualified sick leave equivalent amount or a credit under section 7004 of the FFCRA for the qualified family leave equivalent amount include any amount of these credits in gross income? (added November 25, 2020)

No, the amount of the credits allowed under sections 7002 and 7004 of the FFCRA are not included in the gross income of the eligible self-employed individual.

68. How should a self-employed individual substantiate eligibility for tax credits for qualified leave wage equivalents? (Updated January 28, 2021)

Self-employed individuals should maintain documentation establishing their eligibility for the credits as a self-employed individual. That documentation should be similar to the documentation that employers claiming the credits for qualified leave wages under the FFCRA sections 7001 and 7003 should maintain under "[How Should an Employer Substantiate Eligibility for Tax Credits for Qualified Leave Wages?](#)"

69. May a nonresident alien (NRA) claim the self-employed equivalent credits under sections 7002 and 7004 of the FFCRA? (Added January 28, 2021)

Yes. The qualified sick leave equivalent credits and qualified family leave equivalent credits under sections 7002 and 7004 of the FFCRA, respectively, are available to NRAs who otherwise meet the requirements to claim the tax credits. That is, an individual's status as an NRA does not preclude him or her from claiming the tax credits if he or she both (1) regularly carries on a trade or business within the meaning of section 1402 of the Internal Revenue Code, and (2) would be eligible for paid leave under the EPSLA or Expanded FMLA if the individual was an employee of an employer (other than himself or herself).

Where can I get more information?

- [Coronavirus Tax Relief](#)
- Department of Labor's [COVID-19 and the American Workplace](#) [↗](#)

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