

How Should an Employer Substantiate Eligibility for Tax Credits for Qualified Leave Wages?

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.

44. What information should an Eligible Employer receive from an employee and maintain to substantiate eligibility for the sick leave or family leave credits? (Updated January 28, 2021)

An Eligible Employer will substantiate eligibility for the sick leave or family leave credits if the employer receives a written request for such leave from the employee in which the employee provides:

1. The employee's name;
2. The date or dates for which leave is requested;
3. A statement of the COVID-19 related reason the employee is requesting leave and written support for such reason; and
4. A statement that the employee is unable to work, including by means of telework, for such reason.

In the case of a leave request based on a quarantine order or self-quarantine advice, the statement from the employee should include the name of the governmental entity ordering quarantine or the name of the health care professional advising self-quarantine, and, if the person subject to quarantine or advised to self-quarantine is not the employee, that person's name and relation to the employee.

In the case of a leave request based on a school closing or child care provider unavailability, the statement from the employee should include the name and age of the child (or children) to be cared for, the name of the school (or summer camp, summer enrichment program, or other summer program) that has closed or place of care that is unavailable, and a representation that no other person will be providing care for the child during the period for which the employee is receiving family medical leave and, with respect to the employee's inability to work or telework because of a need to provide care for a child older than fourteen during daylight hours, a statement that special circumstances exist requiring the employee to provide care.

Example: A state government directive specifies that employees quarantining either because they have COVID-19 symptoms or have been directly exposed to COVID-19 are not required to provide their employer with a COVID-19 test result or a healthcare provider's note to validate their illness or exposure and need for leave. A written request from an employee providing the name of the government entity and briefly describing the directive would satisfy the applicable substantiation requirements.

45. What additional records should an Eligible Employer maintain to substantiate eligibility for the sick leave or family leave credit? (Updated November 25, 2020)

An Eligible Employer will substantiate eligibility for the sick leave or family leave credits if, in addition to the information set forth in FAQ 44 ("**What information should an Eligible Employer receive from an employee and maintain to substantiate eligibility for the sick leave or family leave credits?**"), the employer creates and maintains records that include the following information:

1. Documentation to show how the employer determined the amount of qualified sick and family leave wages paid to employees that are eligible for the credit, including records of work, telework and qualified sick leave and qualified family leave.
2. Documentation to show how the employer determined the amount of qualified health plan expenses that the employer allocated to wages. See FAQ 31 ("[Determining the Amount of Allocable Qualified Health Plan Expenses](#)") for methods to compute this allocation.
3. Copies of any completed [Forms 7200, Advance of Employer Credits Due To COVID-19](#) [PDF](#), that the employer submitted to the IRS.
4. Copies of the completed [Forms 941, Employer's Quarterly Federal Tax Return](#) [PDF](#), that the employer submitted to the IRS (or, for employers that use third party payers to meet their employment tax obligations, records of information provided to the third party payer regarding the employer's entitlement to the credit claimed on Form 941).

46. How long should an Eligible Employer maintain records to substantiate eligibility for the sick leave or family leave credit? (Added November 25, 2020)

An Eligible Employer should keep all records of employment taxes for at least 4 years after the date the tax becomes due or is paid, whichever comes later. These should be available for IRS review.

46a. May an employer choose to require information from employees in addition to that described in these FAQs? (Added November 25, 2020)

Yes. An employer may choose to require additional information from the employee.

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