



Filing season 2020: Covid-19 updates

Recent legislation

The Families First Coronavirus Response Act (FFCRA) (March 25, 2020).

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (March 28, 2020)

The IRS will post all key information on [IRS.gov/coronavirus](https://www.irs.gov/coronavirus) as soon as it becomes available.

Message issued by The Tax Institute:

Stimulus payments (CARES Act)

The Treasury Department will begin distributing “economic impact payments.” The announcement, dated March 30, states “payments will begin in the next three weeks.” Payments will be available through the rest of 2020.

- Most people do not have to take any action to get a payment. The IRS will use 2019 tax return information, or 2018 information if 2019 is not yet available.
- Taxpayers who are not required to file (NRTF) will be able to file a “simple” return to get a payment. The IRS will provide more information soon on how the NRTF group should complete these basic returns.
- **The IRS intends to develop a web-based portal for taxpayers to provide their banking information if they did not provide it on their tax return and wish to do so now. Otherwise, the IRS will mail the payment to the taxpayer’s address of record.**

IRS news release [IR-2020-61](https://www.irs.gov/irb/2020-06-01)

Emergency paid leave and employer credits (FFCRA)

There are two broad categories of mandatory leave and corresponding credits. The leave and credits apply to businesses and non-profits with fewer than 500 employees for leave taken April 1, 2020, through the end of the year.

- Two weeks (80 hours) of emergency sick leave for employees who are ill, or caring for ill household members, or caring for children at home. The corresponding credits are 100% of pay up to \$511 per employee per day (\$5,110 in the aggregate) for employees who are ill and two-thirds of pay up to \$200 per employee per day (\$2,000 in the aggregate) to care for ill household members or provide childcare.
- Up to 10 weeks of expanded family leave to provide childcare. The corresponding credit is two-thirds of pay up to \$200 per employee per day (\$10,000 in the aggregate).

Small business exemption. Businesses with fewer than 50 employees will be eligible for an exemption from mandated leave relating to childcare (both emergency sick leave and expanded family leave). The Department of Labor (DOL) will provide guidance on how small employers obtain the exemption. There are no other exemptions for mandated leave under the FFCRA.

Paying for mandated leave. Ordinarily, employers must deposit payroll taxes withheld from employees according to their [deposit schedule](#). These include federal income tax, social security tax, and Medicare tax withheld from employees’ pay plus the employer’s share of Medicare taxes.



Reminder: Under the CARES Act employers may postpone paying the employer's share of the social security portion of FICA Taxes.

Employers who pay qualifying mandatory leave to eligible employees may *retain* a corresponding amount of payroll taxes they would otherwise have to deposit. If there are insufficient payroll taxes to cover the cost of qualified leave, employers will be able to request an accelerated payment from the IRS.

The IRS has developed new [Form 7200](#), *Advance Payment of Employer Credits Due to COVID-19* and related [instructions](#) on how to request the accelerated credit for emergency leave. This form will also be used to get an advance on the employee retention credit discussed in the next section.

Non-enforcement period. The DOL is issuing a 30-day non-enforcement policy to allow employers to come into compliance with the Act. During this time, the DOL will not bring enforcement actions against employers who act reasonably and in good faith to comply. The DOL will focus on compliance assistance instead.

IRS news release [IR-2020-57](#)

DOL [FAQs](#)

Employee retention credit (CARES Act)

The employee retention credit applies to businesses that have:

- Fully or partly suspended operations because of a government-ordered shutdown during the calendar quarter, or
- Gross receipts that have fallen below 50% of receipts in the comparable quarter in 2019.

The employee retention credit is a refundable credit of 50% of the first \$10,000 in qualifying wages (including the cost of health insurance) paid by the affected employer to an eligible employee. For employers with more than 100 employees, continued pay must be to employees who did not work because of one of the above two reasons. For employers with 100 or fewer employees continued pay may be to all employees, whether they worked or not.

- Unlike the required leave and credits discussed in the previous section, continued pay is not mandatory.
- Wages used to claim the qualified sick leave and family leave credits may not be used to claim the employee retention credit.
- Employers receiving emergency small business loans may not claim this credit.

Paying for leave. Similarly, to the qualified sick and family leave credits, employers can be immediately reimbursed for the credit by reducing their required deposits of withheld income taxes, social security and Medicare taxes plus the employer's share of Medicare taxes. If retained taxes are not sufficient to cover the credit, the employer may receive an advance payment by submitting a new Form 7200 to the IRS.

IRS news release [IR-2020-62](#)

[FAQs: Employee Retention Credit under the CARES Act](#)



Penalty relief (FFCRA and CARES Act)

The IRS is providing relief from the §6656 failure-to-deposit penalty for employers who retain employment taxes in anticipation of claiming one of the new refundable credits for paying:

- Qualified required leave wages including health plan expenses starting April 1, 2020 through the end of the year (FFCRA).
- Qualified retention wages including health plan expenses starting March 13, 2020 through the end of the year (CARES).

Employment taxes that may be retained for credit purposes include withheld income taxes and FICA taxes (employee's share of social security and Medicare taxes) plus the employer's share of Medicare taxes. Retained taxes may not be more than qualified wages paid.

Employers may not retain employment taxes *and* seek an advance payment to cover the *same* qualified wages.

[IRS Notice 2020-22](#)

Loan guidance and resources (CARES Act)

The Small Business Administration (SBA) has provided the following loan guidance and resources available to small businesses during the pandemic:

[Overview of available assistance](#)

[Paycheck protection program](#)

[COVID-19 economic injury disaster loan](#)

Postponement of gift taxes

The April 15 deadline for Form 709, *U.S. Gift (and Generation-Skipping Transfer) Tax Return* and tax payments is postponed to July 15, 2020.

[Notice 2020-20](#)

MIR Taxes LLC:

If you have additional questions or need assistance, please contact MIR Taxes LLC [here](#). In the meantime, stay safe.... #stayhome.