



Section 45S Employer Credit for Paid Family and Medical Leave FAQs

Q: What is the employer credit for paid family and medical leave?

A: This is a general business credit employers may claim, based on wages paid to qualifying employees while they are on family and medical leave, subject to certain conditions.

Q: Who may claim the employer credit for paid family and medical leave?

A: Employers must have a written policy in place that meets certain requirements, including providing:

- 1) At least two weeks of paid family and medical leave (annually) to all qualifying employees who work full time (prorated for employees who work part time), and
- 2) The paid leave is not less than 50 percent of the wages normally paid to the employee.

Q: Who is a qualifying employee?

A: A qualifying employee is any employee under the Fair Labor Standards Act who has been employed by the employer for one year or more and who, for the preceding year, had compensation of not more than a certain amount. For an employer claiming a credit for wages paid to an employee in 2018, the employee must not have earned more than \$72,000 in 2017.

Q: What is “family and medical leave” for purposes of the paid family and medical leave credit?

A: This is leave for one or more of the following reasons:

- 1) Birth of an employee’s child and to care for the child.
- 2) Placement of a child with the employee for adoption or foster care.
- 3) To care for the employee’s spouse, child, or parent who has a serious health condition.
- 4) A serious health condition that makes the employee unable to perform the functions of his or her position.
- 5) Any qualifying exigency due to an employee’s spouse, child, or parent being on covered active duty (or having been notified of an impending call or order to covered active duty) in the Armed Forces.
- 6) To care for a service member who is the employee’s spouse, child, parent, or next of kin.

If an employer provides paid vacation leave, personal leave, or medical or sick leave (other than leave specifically for one or more of the purposes stated above), that paid leave is not considered family and medical leave. In addition, any leave paid by a State or local government or required by State or local law will not be taken into account in determining the amount of employer-provided paid family and medical leave.

Q: How is the paid family and medical leave credit calculated?

A: The credit is a percentage of the amount of wages paid to a qualifying employee while on family and medical leave for up to 12 weeks per taxable year. The minimum percentage is 12.5% and is increased by 0.25% for each percentage point by which the amount paid to a qualifying employee exceeds 50% of the employee's wages, with a maximum of 25%. In certain cases, an additional limit may apply.

Q: How does the credit impact an employer's deduction for the wages paid to an employee while on family and medical leave or claim for any other general business credits?

A: An employer must reduce its deduction for wages or salaries paid or incurred by the amount determined as a credit. Also, any wages taken into account in determining any other general business credit may not be used in determining this credit.

Q: What is the effective date of the paid family and medical leave credit?

A: The credit is generally effective for wages paid in taxable years of the employer beginning after December 31, 2017, and it is not available for wages paid in taxable years beginning after December 31, 2019.

Q: Will the IRS provide additional information on the credit?

A: The IRS expects that additional information will be provided that will address, for example, when the written policy must be in place, how paid "family and medical leave" relates to an employer's other paid leave, how to determine whether an employee has been employed for "one year or more," the impact of State and local leave requirements, and whether members of a controlled group of corporations and businesses under common control are treated as a single taxpayer in determining the credit.