



paragon™

COVID-19 Q&A

- **Paycheck Protection Program (PPP)** – allows employers to receive a loan for the lesser of \$10,000,000.00 or 2.5 times your average monthly payroll cost. 75% used towards payroll cost, 25% used for non payroll expenses (rent, utilities, mortgage interest).
  - Up to 100% of the loan may be eligible for forgiveness.
- **Employee Payroll Costs include** – W2 Salary, wages, commissions, tips (capped at \$100k annualized per employee); Benefits including vacation, sick, employer paid group healthcare, employer retirement contributions; employer portion of state and local taxes assessed on compensation.
  - FFCRA paid leave wages are not eligible payroll costs

- **Employee Retention Credit** – A refundable tax credit against certain employment taxes equal to 50%, up to \$10,000, of the qualified wages an eligible employer pays to employees after March 12, 2020, and before January 1, 2021. (employers with a PPP loan cannot take advantage of the employee retention credit).
  - Form 7200 can be used to request an advance payment of the tax credits, typically claimed on the 941 Quarterly Tax Return, for qualified sick and family leave wages under the FFCRA and/or for the Employee Retention Credit under the CARES Act.
  - If a client has filed, or are planning to file Form 7200, they must notify Paragon immediately. Advanced payments will need to be accounted for when Paragon completes the tax return.

- **Tax Payment Deferral** – Employer may defer payment of the employer portion of social security tax through December 31, 2020. Self employed individuals may defer certain self-employment taxes. (if they have a PPP loan, they can defer until they receive a forgiveness decision from their lender)
  - Paragon's software has been updated to calculate and defer tax payments. This update stops the draft (and deposits) of these tax dollars, while simultaneously tracking the tax and deferral amount.
  - Payment, equal to 50% of the deferred tax, is due by December 31, 2021. The remaining amount is due by December 31, 2022.

- **Families First Coronavirus Relief Act – (FFCRA)** – Private employers under 500 ee’s and certain public sector employers are required to comply with this Act.
- **Qualifying Reasons For Leave:**
  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 related to COVID-19;
  3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
  4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
  5. is caring for his or her child whose school or place of care is closed (or childcare provider is unavailable) due to COVID-19 related reasons; or
  6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

- **Emergency paid sick leave** – employees are eligible for up to 2 weeks of fully or partially paid sick leave for COVID-19 related reasons, paid at:
  - 100% for qualifying reasons 1-3; up to \$511 daily and \$5,110 total
  - 2/3 for qualifying reasons 4-6; up to \$200 daily and \$2,000 total
- **Expanded paid family and medical leave** – employees employed for 30 days prior to their leave request may be eligible for an additional 10 weeks of partially paid expanded family and medical leave (Caring for a child whose school or place of care is closed/unavailable due to COVID-19 related reasons). Up to 12 weeks total of paid sick leave and expanded family and medical leave, paid at:
  - 2/3 for qualifying reason 5; up to \$200 daily and \$12,000 total

- **Can I receive tax credits under FFCRA if I have a PPP loan?**
  - The PPP loan does not consider FFCRA paid leave wages as a payroll cost, therefore, you are eligible to receive tax credits on paid leave wages under the FFCRA.
- **Can I receive tax credits under both FFCRA and CARES Act?**
  - Yes, you can receive credits under both but NOT for the same wages. If you are receiving the FFCRA credit for paid leave wages, you would not include those in the Retention Credit wages.
- **Can an employee receive both the paid sick leave and the expanded family and medical leave at the same time?**
  - Yes, an employee may take both paid sick leave and expanded family and medical leave for a total of twelve weeks of paid leave.

- **Do I have to pay my employees sick leave under the FFCRA if I have less than 50 employees?**
  - Small business exemptions only apply to leave requested because of a child's school or place of care is closed or childcare provider is unavailable due to COVID-19-related reasons. Small businesses are NOT exempt from providing leave for any of the other types of permissible requests under the FFCRA. An employer cannot automatically deny leave to all employees. For each request, the small employer must document the facts, circumstances, and its justification for denying each leave request under the exemption and retain all records.
- **Will an employee need to provide documentation to request leave under the FFCRA?**
  - All employers subject to the FFCRA are required to retain all FFCRA documentation for four (4) years, regardless of whether FFCRA leave was granted or denied. Any employee requesting leave will be required to provide verbal or written communication to their employers. If providing verbal communication, it is recommended the employer document all conversations in accordance with the IRS credit guidelines. The information to include in the documentation varies based on leave type.

- **Are Part-Time employees eligible for paid sick leave under the FFCRA?**
  - Part-Time employees are eligible to receive paid sick leave. This amount is calculated based on the average number of hours the employee works over a typical two-week period.
- **Can an employee take paid sick leave or expanded family and medical leave intermittently?**
  - If the employer agrees, the employee may take paid sick leave intermittently if taking leave to care for a child whose school is closed, or whose childcare provider is unavailable, because of COVID-19 related reasons.
- **If an employee only used one week of paid sick leave, can they take additional sick leave at a later date?**
  - Yes, an employee may take any remaining paid sick leave at a later time, until December 31, 2020, if another qualifying reason occurs.

- **If I want to pay employees more than they are entitled to receive under the FFCRA, can I do so and claim a tax credit for the entire amount paid to them?**
  - You may pay your employees in excess of FFCRA requirements. But you cannot claim, and will not receive tax credit for, those amounts in excess of the FFCRA's statutory limits.
- **Will an employee qualify for leave for a COVID-19 related reason if they have already used some or all of their leave under the Family and Medical Leave Act (FMLA)?**
  - If an employer was covered by the FMLA prior to April 1, 2020, eligibility for expanded family and medical leave depends on how much leave already taken during the 12-month period the employer uses for FMLA leave. Employees may take a total of 12 workweeks for FMLA or expanded family and medical leave reasons during a 12-month period. If they have taken some, but not all, the employee may take the remaining portion of leave available. If they have already taken 12 workweeks, additional expanded family and medical leave cannot be taken.

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- **Can I use my PPP Loan to pay employees a full work week if they did not work or only worked a partial week?**
  - The PPP Rule states funds can be used to retain workers and maintain payroll, but it does not specify verbiage about paying for time not worked.
- **How do I calculate the pro-rated annualized cap amount by pay period?**
  - Many suggest dividing the \$100,000 cap by the number of pay periods per year, however, there is NOT a formal calculation method published by the sba.
- **Are 2020 YTD wages earned prior to receiving the PPP Loan included in the annualized \$100,000 employee cap?**
  - It is unclear whether or not previously earned wages in 2020 will have an affect on the annualized cap.

- **If I received my PPP Loan the same week I process payroll, can I use my loan to pay those wages earned in a prior week?**
  - It is still unclear whether or not PPP Loan forgiveness is based on a cash or accrual basis.
- **Are auto and housing allowances considered Payroll Costs?**
  - If the allowance is included as part of the employee's taxable compensation the allowance would be considered a payroll cost and subject to the \$100,000 annualized limit.
- **Can Paragon provide a report that shows exactly what I need to fund from my PPP Loan?**
  - Paragon can create a custom report for a client if they provide the specific earning/tax codes to include. Paragon can NOT advise/guide the client on which codes to include in this report! All requests must be documented in a case.

- **Can employees receive both, unemployment benefits and pay through an employer's PPP Loan?**
  - If an employee returns to work full time, they would not be eligible for UI benefits and should stop requesting payment once they begin working.
- **For payroll cost purposes, do I need to reduce employee wages by the FICA tax imposed?**
  - Payroll costs are not reduced by taxes imposed on an employee or withheld from employee wages.
- **What happens if I pay an employee over \$100,000**
  - The annualized cap of \$100,000 is for forgiveness purposes, amounts paid in excess of this cap will not be forgiven and will be subject to the interest rate of the loan.

# Helpful Links

- FAQs related to the deferral of employment tax deposits: <https://www.irs.gov/newsroom/deferral-of-employment-tax-deposits-and-payments-through-december-31-2020>
- FAQs related to the CARES Act Employee Retention Credit: <https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act>
- FAQs related to the Paycheck Protection Program: [https://www.sba.gov/sites/default/files/2020-05/Paycheck-Protection-Program-Frequently-Asked-Questions\\_05%2013%2020.pdf](https://www.sba.gov/sites/default/files/2020-05/Paycheck-Protection-Program-Frequently-Asked-Questions_05%2013%2020.pdf)
- FAQs related to the Paycheck Protection Program: <https://home.treasury.gov/system/files/136/PPP--IFRN%20FINAL.pdf>
- FAQs related to the FFCRA tax credits and paid leave provisions:
- <https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs>
- Details about the Form 7200: <https://www.irs.gov/instructions/i7200>
- DOL Requirements for FFCRA Leave : <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>
- IRS Requirements for FFCRA Leave : [https://www.irs.gov/newsroom/covid-19-related-tax-credits-how-to-substantiate-eligibility-and-periods-of-time-for-which-credits-are-available-faqs#substantiate\\_eligibility](https://www.irs.gov/newsroom/covid-19-related-tax-credits-how-to-substantiate-eligibility-and-periods-of-time-for-which-credits-are-available-faqs#substantiate_eligibility)