

Employee Documentation for FFCRA Leave – IRS Guidance

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The IRS has released FAQs regarding tax credits available to employers under the Families First Coronavirus Response Act (the "FFCRA").

At questions 44 through 46 in the FAQs, the IRS tells employers what documents they should create, collect from employees, and keep in order to receive FFCRA leave tax credits.

First, employers should collect and keep written leave requests from employees in connection with FFCRA leave. These written requests should include (i) the date(s) for which leave is requested; (ii) the COVID-19 related reason for leave and written support for such reason; and (iii) a statement that the employee is unable to work, including by means of telework, for such reason.

If leave is based on based on a quarantine order, self-quarantine advice, a school closing, or child care provider unavailability, employees must provide additional information in their written request, which is set forth in the answer to question 44.

Second, employers should create and keep documentation to show how they determined the amount of (i) leave wages paid to each employee and (ii) qualified health plan expenses allocated to wages, in addition to copies of completed IRS Tax Forms 7200 and 941. Per the answer to question 46, employers 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.

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