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Employers may claim tax credit for providing paid family and medical leave to employees

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Employers who provide paid family and medical leave to their employees may claim a credit for tax years 2018 and 2019. The Employer Credit for Paid Family and Medical Leave is a business credit based on a percentage of wages paid to qualifying employees while they're on [family and medical leave](#).

To claim the credit, eligible employers must have a written policy in place that satisfies certain requirements, including:

- At least two weeks of paid leave to full-time employees (prorated for part-time employees), and
- The paid leave must be at least 50% of the wages normally paid to the employee.

The credit is generally effective for wages paid in taxable years beginning after Dec. 31, 2017, and before Jan. 1, 2020. Eligible employers use [Form 8994](#), Employer Credit for Paid Family and Medical Leave, to calculate the credit.

Qualifying employees

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, in the preceding year, didn't have compensation of more than a certain amount. For tax year 2018 and 2019, the employee's prior year compensation from the employer must have been \$72,000 or less. Additionally, any requirement that an employee work 12 consecutive months or a minimum number of hours to be a qualifying employee would not be viewed as a reasonable method for determining whether an employee has been employed for one year.

Family and medical leave

Family and medical leave is for one or more of the following:

- Birth of an employee's child and to care for the child;
- Placement of a child with the employee for adoption or foster care;
- To care for the employee's spouse, child or parent who has a serious health condition;
- A serious health condition that makes the employee unable to do the functions of their position;
- 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; and
- To care for a service member who's the employee's spouse, child, parent or next of kin.

Employer paid vacation leave, personal leave, or medical or sick leave (other than leave specifically designated for one or more of the purposes stated above and that cannot be used for reasons other than FMLA purposes or for any other reason) isn't considered family and medical leave. Also, employers may not take into account any leave paid by a state or local government or required by state or local law when determining the amount of employer-provided paid family and medical leave.

Wages paid by a third-party payer, such as an insurance company or a professional employer organization, to a qualifying employee for services performed for an eligible employer are considered wages for purposes of the credit. But, only the eligible employer, not the third-party payer, can take these wages into consideration when calculating the credit

Calculation of credit

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 applicable percentage is equal to 12.5% and increases by 0.25% for each percentage point by which the amount paid to a qualifying employee exceeds 50% of the employee's wages. The maximum applicable percentage is 25%. In certain cases, an additional limit may apply.

An employer may not deduct wages or salaries paid or incurred equal to the amount claimed as a credit. Also, the employer may not use wages taken into account in determining other business credits when calculating this credit.

When to claim the credit

An employer can claim the credit only for leave taken after the written leave policy is in place. The written policy is considered to be in place on the later of the policy's adoption date or the policy's effective date. A transition rule applies for the first taxable year of an employer beginning after Dec. 31, 2017.

See Notice [2018-71](#) and the Frequently Asked Questions on IRS.gov for more information about the transition rule.

More information:

- Publication [5327](#), New tax credit for employers who provide paid family and medical leave
- Publication 5327 ([Spanish](#))
- [Frequently Asked Questions](#)