

**Abstract:** The Tax Cuts and Jobs Act created a new tax credit for certain employers that provide paid family and medical leave. Originally, it was available only for the 2018 and 2019 tax years but was recently extended by a new law. This article has the details.

## **Is the Family and Medical Leave Act credit right for your business?**

The Tax Cuts and Jobs Act created a new tax credit for certain employers that provide paid family and medical leave. Originally, it was available only for the 2018 and 2019 tax years.

However, in December, a new law extended the credit through 2020 for eligible employers that have a written policy providing at least two weeks of such leave annually to all qualifying employees, both full- and part-time, and meet certain other requirements.

### **The credit's value**

An eligible employer can claim a credit equal to 12.5% of wages paid to qualifying employees who are on family and medical leave, if the leave payments are at least 50% of the normal wages paid to them. For each 1% increase over 50%, the credit rate increases by 0.25%, up to a maximum credit rate of 25%.

An eligible employee is one who's worked for your company for at least one year, with compensation for the preceding year not exceeding 60% of the threshold for highly compensated employees for that year. For the 2019 tax year, the threshold for highly compensated employees is \$125,000 (up from \$120,000 for 2018). That means a qualifying employee's 2019 compensation can't exceed \$72,000 ( $60\% \times \$120,000$ ).

Employers that claim the Family and Medical Leave Act credit must reduce their deductions for wages and salaries by the amount of the credit.

### **Qualifying leave**

Under the rules, family and medical leave is defined as time off taken by a qualified employee for only certain reasons. These include the birth, adoption or fostering of a child (and to care for the child). Care for a spouse, child or parent with a serious health condition qualifies, too, as does leave taken by an employee because of a serious health condition.

Also qualifying is any need because of an employee's spouse, child or parent being on covered active duty in the Armed Forces (or being notified of an impending call or order to covered active duty). Care for a spouse, child, parent or next of kin who's a covered veteran or member of the Armed Forces is eligible as well.

Employer-provided vacation, personal, medical or sick leave (other than leave defined above) is ineligible.

### **Important date**

Generally, to claim the credit for your company's first tax year that begins after December 31, 2017, your written family and medical leave policy must be in place before the paid leave for which the credit will be claimed is taken.

However, under a favorable transition rule for the first tax year beginning after December 31, 2017, your company's written leave policy (or an amendment to an existing policy) is considered to be in place as of the effective date of the policy (or amendment) rather than the later adoption date.

**Attractive but pricey**

The new credit could be an attractive perk, but it can also be pricey because you must offer it to all qualifying full-time employees. Contact us for more info.

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