

Legal Update

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IRS Issues Employer Guidance for Reporting 2021 FFCRA Leave

[IRS Notice 2021-53](#), issued Sept. 7, 2021, provides guidance for employers on how to report sick and family leave wages for employee leave taken in 2021 under the Families First Coronavirus Relief Act (FFCRA), as amended by the COVID-related Tax Relief Act of 2020 and the American Rescue Plan Act of 2021. In July 2020, the IRS issued [Notice 2020-54](#) about reporting for FFCRA leave taken in 2020.

Reporting Requirement

Employers are required to report qualified 2021 FFCRA leave wages to employees on either a 2021 Form W-2, Box 14, or in a separate statement provided with the Form W-2. The requirement applies only to employers who claim tax credits for the leave wages under the relevant legislation.

According to the notice, there are separate reporting requirements for leave provided from Jan. 1, 2021, to March 31, 2021, and for leave provided from April 1, 2021, to Sept. 30, 2021. The notice gives additional specific reporting instructions for leave wages that must be entered on Box 1, 3 or 5 of Form W-2. The guidance also includes model language employers may provide as part of the Form W-2, Box 14 "Instructions for Employee," or in a separate statement.

Paid Sick and Family Leave Under FFCRA

The FFCRA, passed in March 2020, required employers with fewer than 500 employees to provide paid sick and family leave for specific COVID-19-related reasons and included employer tax credits to cover leave costs. The leave requirement expired in December 2020. However, the Tax Relief Act of 2020 and the American Rescue Plan Act extended the tax credits for employers who chose to continue to provide FFCRA leave, first through March 31, 2021, and then through Sept. 30, 2021.

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Important Dates

March 11, 2021

American Rescue Plan Act extended tax credits for employers who voluntarily continue FFCRA leave.

Sept. 7, 2021

IRS issued Notice 2021-53 about employer reporting of 2021 FFCRA leave wages.

Sept. 30, 2021

American Rescue Plan Act's tax credit extension for FFCRA leave expires.

Only employers claiming tax credits for FFCRA leave wages must comply with the reporting requirements.