



SPECIAL ALERT

FREQUENTLY ASKED QUESTIONS (FAQS) FOR PAID FAMILY LEAVE TAX CREDIT

The Tax and Jobs Act of 2017 added a tax credit for employers that offer employees a paid family and medical leave benefit. The IRS recently posted FAQs on the Section 45S Employer Credit for Paid Family and Medical Leave, located at <https://www.irs.gov/newsroom/section-45s-employer-credit-for-paid-family-and-medical-leave-faqs>. The IRS has released no other guidance on the Paid Family Leave credits.

The FAQs clarified that this tax credit will be paid for employers offering paid family leave benefits. (However, not many employers offer a paid family leave plan that will qualify for tax credits.) The FAQs offer the following details:

- Employers must have a written policy that provides:
 - At least two full weeks of paid family leave annually to all qualifying employees who

work full-time (pro-rated for employees who work part-time).

- The paid leave is not less than 50 percent of the wages that are normally paid to the employee.
- A qualifying employee is an employee under the Fair Labor Standards Act who has been employed for one year or more and did not earn more than \$72,000 in 2017 (for the 2018 tax credit).
- A family medical leave for the purposes of this tax credit is the same leave under the Family Medical Leave Act (FMLA).
- If an employer provides paid vacation leave, personal leave, medical or sick leave (**other than leave specifically for one or more of the purposes stated above**),



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that paid leave is not considered paid family medical leave for these purposes. In addition, any leave paid for by a state or local government, or required by state or local government, will not be taken into account when determining the employer-paid family leave for these purposes.

- The credit is a percentage of the amount of wages paid to a qualifying employee while on a paid family medical leave for up to 12 weeks per taxable year. The minimum is 12.5 percent. It is increased by 0.25 percent for each percentage point by which the amount paid to the qualifying employee exceeds 50 percent of employee wages, to a maximum of 25 percent. Some additional limits may apply.

- Employers must reduce their deduction for wages paid or incurred by the amount they determine is the credit for paid family leave. Wages taken into account in determining any other general business credit may not be used in determining the paid family leave tax credit.

The credit is effective for wages paid in taxable years beginning after December 31, 2017. It is not available for wages paid in taxable years beginning after December 31, 2019.

The IRS has committed to providing additional details on the paid family leave credit. To date, these are the only details released. [MMA](#)

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Marsh & McLennan Agency LLC

Health & Benefits

3331 West Big Beaver Road, Suite 200
Troy, MI 48084
Telephone: 248-822-8000 Fax: 248-822-4131
www.mma-mi.com

Property & Casualty

15415 Middlebelt Road
Livonia, MI 48154
Telephone: 734-525-0927 Fax: 734-525-0612
www.mma-mi.com



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