



**FAQ: SCHOOL DISTRICT ELIGIBILITY FOR PAYROLL TAX CREDITS  
AMERICAN RESCUE PLAN ACT OF 2021 (ARPA)**

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The purpose of this memorandum is to provide answers to frequently asked questions regarding the effects of the American Rescue Plan Act of 2021 on requirements and incentives connected to Expanded Paid Leave. While this document provides answers to common questions, individual circumstances vary. Districts should consult your attorneys and tax advisers regarding any unique circumstances.

**Background**

On March 11, 2021, President Joe Biden signed the American Rescue Plan Act of 2021 (“ARPA”) into law. The law was designed to help mitigate some of the financial fallout from the COVID-19 pandemic for individuals, businesses, and state and local governments. In addition to introducing new funding for numerous programs, ARPA continues or modifies programs initiated by the Families First Coronavirus Response Act (“FFCRA”) and the Consolidated Appropriations Act, 2021 (“CAA”), including provisions requiring or encouraging certain employers to provide paid sick leave for certain absences related to COVID-19 (referred to herein as “Expanded Paid Leave”). Specifically, ARPA extends and expands tax credits for employers who provide paid leave for certain qualifying reasons.

**FAQ 1: Are employers required to provide paid leave for employees who are absent for reasons related to COVID 19?**

No. While the FFCRA required many employers to provide Expanded Paid Leave, the requirement was not renewed with the CAA. Similarly, ARPA does not require employers to provide Expanded Paid Leave. Employers may choose to provide Expanded Paid Leave and may benefit from available payroll tax incentives if they do provide Expanded Paid Leave (see below).

**FAQ 2: Are Arizona school districts eligible to receive payroll tax credits for providing paid sick leave?**

Yes. The FFCRA and CAA provided tax credits for employers who provide Expanded Paid Leave, but tax credits were not available to state and local governments.<sup>1</sup> ARPA does not include a restriction for state and local governments.<sup>2</sup> As a result, Arizona school districts may now claim a tax credit on payroll taxes for employees who receive paid leave for certain purposes related to COVID-19.

**FAQ 3: What are the effective dates for application of tax credits?**

Employers may claim tax credits for their payroll taxes for “wages paid with respect to the period beginning on April 1, 2021, and ending on September 30, 2021”.<sup>3</sup> The credit is not retroactive for wages paid before April 1, 2021.

**FAQ 4: What absences qualify for a tax credit?**

As with the FFCRA and CAA Employers may claim a tax credit when the employee:

- a) is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- b) has been advised by a health care provider to self-quarantine related to COVID-19;
- c) is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
- d) is caring for an individual subject to an order described in (a) or self-quarantine as described in (b);
- e) is caring for a child whose school or place of care is closed (or childcare provider is unavailable) for reasons related to COVID-19 (employees may qualify for additional time under the EFMLA provisions for this circumstance); or
- f) is experiencing any other substantially similar condition specified by the federal Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Additionally, ARPA permits employers to claim a tax credit when the employee:

- g) is seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19 and such employee has been exposed to COVID-19;
- h) is being tested if the employer has requested such test or diagnosis; or
- i) is obtaining immunization related to COVID-19 or recovering from any injury, disability, illness, or condition related to such immunization after medical diagnosis.<sup>4</sup>

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<sup>1</sup> FFCRA Section 7001(e)

<sup>2</sup> ARPA Section 3131(f)(5)

<sup>3</sup> ARPA Section 3131(h)

<sup>4</sup> ARPA Section 3131(c)(2)(A)

**FAQ 5: Which tax does the credit apply to?**

Under ARPA employers may claim a tax credit for the Medicare portion of employer-paid FICA taxes. This is a change from the FFCRA and CAA, which applied to the Social Security portion of FICA taxes.

**FAQ 6: How much is the tax credit?**

With respect to reasons (a) through (c) and (g) through (i) above, employers qualify for a tax credit of the full amount of the employee's rate of pay, capped at \$511 daily and \$5,100 in the aggregate. With respect to reasons (d) through (f), employers qualify for a credit equal to 2/3 the employee's regular rate of pay, capped at \$200 daily and \$2,000 in the aggregate.

Employers may also claim a tax credit for leave that would qualify for the Expanded FMLA portion of the FFCRA. To qualify, an employee taking leave must be caring for a child whose school or day care has closed due to COVID-19 (reason (e) above), and the employee must use any FMLA leave available to them. In this case, employers may claim up to \$12,000 per employee.

**FAQ 7: How do employers claim tax credits?**

Employers may claim the tax credit on Form 941 when filing quarterly payroll taxes. Form 941 has been updated to provide a space to claim the credit (line 13c). Additionally, the instructions to Form 941 include a worksheet to assist in calculating the tax credit (Worksheet 1). If an employer requires advance payment of these tax credits, the employer may file Form 7200.

**FAQ 8: What can an employer do to ensure proper documentation when filing for the tax credit?**

Employers should document any absences that may qualify for a tax credit using a separate code in the employer's payroll software. At minimum, employers should have separate codes for paid leave eligible for the full wage, paid leave eligible for 2/3 of the employee's wage, and Expanded FMLA.

**Disclaimer: This document has been prepared for general informational purposes only and is not intended as legal advice or a substitute for legal advice.**