



Employer Tax Credit under IRC 45S for Paid Family & Medical Leave

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In the 2017 Tax Cuts & Jobs Act, Congress introduced an employer tax credit for wages paid to employees on paid family and medical leave. The credit was initially available only for tax years 2018 and 2019 but was extended for 2020 in late 2019. To take advantage of this credit, employers must have offered qualifying employees at least two weeks of paid family and medical leave at a rate of at least 50% of their normal hourly wages in addition to any leave and rate of pay required by state or local government. The amount of the credit ranged from 12.5-25% of the wages paid to each employee while on family and medical leave. Given the credit's initially short lifespan and complexity, many employers concluded that the tax credit was not worth pursuing.

In the Consolidated Appropriations Act of 2021, Congress extended the availability of this credit for family and medical leave wages paid through 2025. Now that this credit is available through the next five years, employers not already offering paid leave may want to seriously consider creating a family and medical leave program that qualifies while employers with an existing leave program should determine whether the program can be modified to qualify. Read our alert for further details.