

## **Paid Family and Medical Leave Tax Credit** *Referred to as "The Tax Act of December 2017"*

Updated: 9/24/2018

Looking for additional "tax credits." Pay attention to ***The Tax Act of December 2017***. **This Program was previously approved as a pilot program in 2017. On September 24, 2018, it was announced that the program is being extended through the 2019 tax year.**

### **What is The Tax Credit of December 2017?**

The paid family and medical tax credit is available to companies, of all sizes regardless if the Company otherwise would/ or would not be required to offer Federal FMLA based on their employee census head count, that provide paid time off to employees, where the paid time off is specifically provided to employees using it for family and medical reasons and is ***in addition*** to any "other" standard type of time off that the employee would normally be eligible for such as: vacation, sick, PTO. Additionally, if the employee, while on leave, is receiving any income replacement through any state leave program, any income received through the state program is excluded from the tax credit calculation.

### **What leave qualifies, as eligible time off, under this tax act program?**

- Birth of child.
- Placement of a child with the employee for adoption or foster care.
- To care for the employee's spouse, child, or parent who has a serious health condition.
- A serious health condition that makes the employee unable to perform the functions of his or her position.
- Any qualifying exigency due to an employee's spouse, child, or parent being on covered active duty (or having been notified of an impending call or order to covered active duty) in the Armed Forces.
- To care for a service member who is the employee's spouse, child, parent, or next of kin.

## **What is required of an Employer to participate in the Tax Credit Program**

- Employers must have a policy, that is in writing, that is distributed and made available to all employees that outlines the provisions of this additional paid leave.
  - **Updating Employee Handbooks:** McCloskey Partners is recommending that companies interested in rolling out this benefit amend their employee handbooks. (Specifically amend “Family Medical leave/ Leave of Absence” policies, to include language about this paid benefit.)

## **Recommended Handbook Policy Language**

*Effective 12/31/2017, and in conjunction with The Tax Act of 2017, the company offers all eligible employees, on a family and medical leave, an additional **X number** of paid weeks of time off. [Number of weeks company has approved to be paid as part of this “additional” time off policy. To qualify for the tax credits, the company **MUST** provide at least two (2) additional weeks of paid family and medical leave.]*

*NOTE: This additional benefit is approved 1/1/2018 through 12/31/2019. Additionally, any time prior to 12/31/2019, the benefit may be discontinued.*

## **Who qualifies for this additional paid time off**

- *Employees in all fair labor standards classifications qualify for this additional time;*
- *Employee worked for the company for at least one year over the preceding year.*

## **How is Full Time & Part Time employment treated**

*Both \*\* full time and part time employees are eligible for this additional paid time off.*

***Example #1:** If a full-time employee is hired to work 32 hours per week, this additional paid benefit is based on a 32-hour work week.*

***Example #2:** If a part time employee is hired to work 20 hours per week, this additional paid benefit is based on a 20-hour work week.*

*\*\* Regardless of the employee’s approved work week schedule, the additional paid leave will not be less than 50% of the wages they normally receive.*

*To request this additional time off, employees must follow all standard requirements of submitting for a leave. Refer to the “requesting time off” section in the Employee Handbook. Any questions about this policy should be directed to the Human Resources Department.*

## **Calculating the Tax Credit**

- The credit is a percentage of the amount of wages paid to the qualifying employee while they are out on family and medical leave when the wages paid are in addition to any other paid time off and wages paid are specific to their family and medical leave.
  - Employers can only take into consideration employees that earned \$72,000 or less in 2017 when calculating possible tax credits due to the company.
  - Eligible employees may be out on Family Medical Leave for up to 12 weeks per taxable year.
  - The minimum percentage is 12.5% and is increased by 0.25% for each percentage point by which the amount paid to a qualifying employee exceeds 50% of the employee’s wages, with a **maximum of 25%**.
    - **Example:** Employee ABC is paid \$15/hour and is a full-time employee approved to work 40 hours per week. Company ABC has a policy that they pay 100% of the employee’s pre-leave compensation for two (2) weeks of “additional paid time off when employees are on family medical leave.”
      - \$15 x 40 hours= \$600
      - The tax credit would be \$600 x 25% =\$150/per week

Percentage of Compensation Provided to Employees through this additional paid time off; family and medical leave	Tax Credit to be applied
0%-49%	0%
50%	12.50%
60%	15.00%
70%	18%
80%	20.00%
90%	22.50%
100%	25%

This new tax credit is currently considered a pilot program. McCloskey Partners will be monitoring updates throughout 2019. It continues to be anticipated that the program may be updated and that the IRS will release some additional clarifications as Companies start to take advantage of this business tax credit. Please check back with us often to ensure your team is up to date on all developments of this tax credit.

***Need more information on this tax credit?*** Check out the IRS's Q&A designed specifically for this program. <https://www.irs.gov/newsroom/section-45s-employer-credit-for-paid-family-and-medical-leave-faqs>

Questions or concerns about this Tax Credit? Contact McCloskey Partners for the answers!

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