

2018 WOTC Employer Tax Credit for Paid Family and Medical Leave

Eligible employers can claim a general business credit equal to a percentage of wages paid to qualifying employees on leave under the Family and Medical Leave Act (FMLA). Employers will have to provide at least two weeks of leave and compensate workers at a minimum of 50 percent of their regular earnings.

The details:

Amount of Credit:

This provision would allow eligible employers to claim a general business credit equal to 12.5 percent of the amount of wages paid to qualifying employees during any period in which such employees are on family and medical leave if the rate of payment under the program is 50 percent of the wages normally paid to an employee. The credit is increased by 0.25 percentage points (but not above 25 percent) for each percentage point by which the rate of payment exceeds 50 percent.

Eligible Employer:

An “eligible employer” is one that allows all qualifying full-time employees not less than two weeks of annual paid family and medical leave, and who allows all less-than-full-time qualifying employees a commensurate amount of leave on a pro rated basis. For purposes of this requirement, leave paid for by a state or local government is not taken into account.

Qualifying Employee:

Any employee as defined in FLSA Sec. 3(e) who has been employed by the employer for one year or more, and who for the preceding year, had compensation not in excess of 60 percent of the compensation threshold for highly compensated employees. Employers can only apply the credit toward workers who have been employed at the organization for at least a year and who were paid no more than \$72,000 for 2017.

Leave Defined:

“Family and medical leave” is defined as leave described under FMLA Sec. 102(a)(1)(a)-(e) or 102(a)(3). If an employer provides paid leave as vacation leave, personal leave, or other medical or sick leave, this paid leave would not be considered to be family and medical leave.

Requirement:

The employer is required to have a written policy that provides at least two weeks of paid leave for family and medical leave at not less than 50 percent of wages for full-time, and a prorated amount for part-time, employees. The two weeks of paid leave cannot be provided as vacation, personal, medical or sick leave. To be considered for the tax credit, the paid family and medical leave needs to be a separate provision in the employer’s policies.

Effective date. The provision would be generally effective for wages paid in taxable years beginning after December 31, 2017. It would not apply to wages paid in taxable years beginning after December 31, 2019.