



*National Payroll Reporting Consortium*

PO Box 850 ★ Henrietta, NY 14467-0850 ★ [www.NPRC-Inc.org](http://www.NPRC-Inc.org)

February 16, 2021

Mr. Sydney Gernstein, Esq.  
Mr. Michael Gitlin, Esq.  
IRS Chief Counsel, Employee Benefits, Exempt Organizations, and Employment Taxes  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

Re: Form W-2 Box 14 Reporting of Qualified FFCRA Wages Paid for 2020 and 2021

Dear Mr. Gernstein and Mr. Gitlin:

We are writing to suggest alternatives to the requirement to display on the 2021 Form W-2 FFCRA wage payment amounts from the prior tax year; i.e., 2020. This requirement is explained in IRS FFCRA [FAQ 54b: “How do Eligible Employers report qualified leave wages?”](#) (Updated January 28, 2021)”

The National Payroll Reporting Consortium (“NPRC”) is a non-profit trade association whose member organizations provide payroll processing and related services to nearly two million U.S. employers, representing roughly 40% of the private-sector workforce, as well as software developers that provide software to enable such services. Payroll service providers have long served an important role in our nation’s tax collection system as a conduit between employers and government authorities. Payroll service providers improve the efficiency of government tax collections and reporting through electronic payment and reporting programs and improve employer compliance.

We appreciate your diligent work in quickly providing guidance on the Families First Coronavirus Response Act (FFCRA) as extended by the COVID-related Tax Relief Act of 2020 [Division N, Title II, Subtitle B of the Consolidated Appropriations Act, 2021 (P.L. 116-260)]. Over the past year, rapid guidance in the form of IRS FAQs has been extremely helpful to private sector efforts to implement the Act.

IRS Notice 2020-54 set forth requirements to report the amount of qualified sick leave wages and qualified family leave wages under the FFCRA; i.e., that employers must report these amounts either on Form W-2, Box 14, or on a separate statement. We understand that this reporting was necessary to inform employees who are also self-employed with the information they need to claim FFCRA leave equivalent credits with respect to their self-employment.

On January 28, 2021, the IRS released updated FFCRA FAQs, including the following:

***FAQ 54(b): How do Eligible Employers report qualified leave wages?<sup>1</sup>***

<sup>1</sup> <https://www.irs.gov/newsroom/special-issues-for-employers-taxation-and-deductibility-of-tax-credits#special-issues-employers-other-issues>



*Eligible Employers must report the amount of qualified sick and family leave wages paid to employees under the EPSLA and Expanded FMLA on Form W-2, Wage and Tax Statement PDF, either in Box 14, or in a statement provided with the Form W-2. For the 2020 Form W-2, Eligible Employers must report qualified sick and family leave wages paid in 2020. **For the 2021 Form W-2, Eligible Employers must report the total qualified sick and family leave wages paid in both 2020 and 2021.** (emphasis added)*

This may need clarification. It seems to indicate that for each of up to three categories of leave, the employer should report the combined amount paid for 2020 and 2021. But it doesn't specify, and some employers could interpret this as requiring separately stated totals for 2020 and 2021, by leave category. Further, some taxpayers may need to have the 2020 and 2021 amounts separately stated; for example, those who receive FFCRA leave wages in both 2020 and 2021, and who also sought to take the FFCRA credit related to self-employment in both years. (Although as noted below, instructions could advise employees to view their 2020 Form W-2 to discern the 2020 amount.)

The Box 14 entry is intended to inform taxpayers who may be both employed and self-employed and who could conceivably claim the FFCRA leave credits with respect to self-employment income. Such leave tax credits are also currently limited by the amounts originally expressed in the FFCRA; e.g., sick leave credit is limited to \$5,110 per worker; family leave credit is limited to \$10,000, etc., as amended. While the credit was extended to payments for leave incurred through March, 2021, these limits were not renewed, and thus any 2021 eligible amounts may be limited by any aggregate FFCRA wages paid in 2020. Consequently, it would be convenient and helpful to taxpayers if 2021 Forms W-2 could display both 2020 and 2021 FFCRA qualified wage amounts.

However, this would be a significant precedent, and would be inconsistent with all payroll and related administrative systems. Form W-2 has never needed to display data from both the immediately preceding tax year AND the year before that; i.e., 2021 and 2020. It would be a major change for all such systems.

Further, even if every employer and software system immediately undertook the re-engineering efforts to comply with this, a significant percentage of employees would not receive the intended prior year data. Historic job turnover rates are in the 20% range, and former employees will not receive a 2021 Form W-2 from prior employers solely to re-report the 2020 FFCRA wage amount. Nor would employers be able to obtain 2020 FFCRA wage data from former employers for any employees hired in 2021.

There would also be a significant percentage of employers who change their payroll systems or service providers; or that are involved in mergers or acquisitions. It would be a substantial burden for every such transaction to obtain and/or bring forward specific wage amounts from the preceding calendar year in order to report it on the 2021 W-2 Box 14.

It may also be very confusing to taxpayers, who have never seen an immediately-preceding year value on their prior-year W-2. This could cause a high volume of questions, such as from employees who notice that the Box 14 FFCRA wage amount is more than the FFCRA leave



payments that they received in 2021, and assume that the full amount shown in Box 14 was also included in taxable wages for 2021. It would be difficult for employers to “prove” otherwise. As another example, taxpayers that received FFCRA wages in 2021 from a new employer in 2021 and who also received FFCRA wages in 2020 could reasonably presume based on the instructions that the 2021 W-2 from their new employer reflects the aggregate FFCRA amount from both years.

The FFCRA information from 2020 will also only be relevant for a very small percentage of taxpayers; i.e., those who were employed in 2020 AND who received FFCRA wages from their employer in 2020 AND who are self-employed in 2021 AND also qualify for additional FFCRA leave credit related to their self-employment in 2021.

### **Recommendation:**

To avoid burdening employers with a substantial new requirement, and to avoid confusing the 99% (estimate) of taxpayers for whom this information is not relevant, we recommend that instead of requiring employers to report the actual FFCRA payment amounts from both 2020 and 2021, the model language for the 2021 Box 14 simply be modified to refer taxpayers to their 2020 W-2 Box 14 (or 2020 Form 1040) for this information. An illustrative example follows:

#### **The following model language (modified as necessary) may be used:**

*“Included in Box 14, if applicable, are amounts paid to you as qualified sick leave wages or qualified family leave wages under the Families First Coronavirus Response Act. Specifically, up to three types of paid qualified sick leave wages or qualified family leave wages are reported in Box 14:*

- i. Sick leave wages subject to the \$511 per day limit because of care you required;*
- ii. Sick leave wages subject to the \$200 per day limit because of care you provided to another; and*
- iii. Emergency family leave wages.*

*If you have self-employment income in addition to wages paid by your employer, and you intend to claim any qualified sick leave or qualified family leave equivalent credits, you must report the qualified sick leave or qualified family leave wages on Form 7202, Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals, included with your income tax return and reduce any qualified sick leave or qualified family leave equivalent credits by the amount of these qualified leave wages.*

**For 2021, any qualified sick leave or family leave equivalent credits may be limited by any qualified sick leave wages or qualified family leave wage amounts paid by your employer(s) in 2020 and 2021. Please refer to your 2020 W-2 Box 14 (or 2020 Form 1040) for any such amounts paid by your employer(s) in 2020.**

The Form 1040 instructions may need to direct taxpayers to find the FFCRA wage amount from their 2020 Form W-2 anyway; for example, with respect to an employee who was employed and received FFCRA wages in 2020 but was exclusively self-employed (i.e., not employed by an employer) in 2021. These individuals will not receive a 2021 Form W-2 and will need to reference their 2020 Form W-2 for the applicable FFCRA wage amount.



Another factor to consider is that not all employers and software developers will be able to make such a significant change in 2021. Consequently, some Forms W-2 may display the intended (2020 and 2021) combined amounts while others may only display any 2021 amount. Yet the Form 1040 instructions may describe the Box 14 entry as the aggregate for 2020 and 2021, and advise taxpayers to rely on the amount in Box 14 as a combined 2020 + 2021 amount. This could lead to incorrect FFCRA amounts claimed for self-employed persons.

We appreciate the opportunity to work with the IRS to improve tax administration. Please let us know if we can provide any additional information or be of service in the meantime.

Sincerely,

A handwritten signature in blue ink, appearing to read "Pete Isberg", is positioned to the right of the word "Sincerely,".

Pete Isberg  
National Payroll Reporting Consortium, Inc.  
909 971-7670  
[Pete\\_Isberg@nprc-inc.org](mailto:Pete_Isberg@nprc-inc.org)