

Vaccinations or Weekly Testing Required for All Employers with 100+ Employees, Paid Time Off, and More

On September 9, 2021, President Biden released his [COVID-19 Action Plan](#) requiring all employers with 100 or more employees to ensure their workers are vaccinated or tested weekly. According to the President, "The Department of Labor's Occupational Safety and Health Administration ([OSHA](#)) is developing a rule that will require all employers with 100 or more employees to ensure their workforce is fully vaccinated or require any workers who remain unvaccinated to produce a negative test result on at least a weekly basis before coming to work. OSHA will issue an Emergency Temporary Standard (ETS) to implement this requirement."

OSHA is also developing an additional ETS requiring employers with more than 100 employees to provide paid time off for workers to get vaccinated or recover from vaccination. The administration is preparing for boosters to start the week of September 20th, subject to authorization or approval by the FDA and a recommendation from the Advisory Committee on Immunization Practices.

The President's plan also calls on entertainment venues like sports arenas, large concert halls, and other venues where large groups of people gather to require that their patrons be vaccinated or show a negative test for entry.

We will provide more information about these new rules when they are released.

IRS Guidance on Reporting Qualified Sick and Family Leave Wages for 2021

On September 7, 2021, the Internal Revenue Service issued [Notice 2021-53](#) to help employers with their Form W-2 reporting and the amount of qualified sick and family leave wages paid to employees for the leave they took in 2021 under the Families First Coronavirus Response Act (FFCRA), as amended by the COVID-Related Tax Relief Act of 2020, and the American Rescue Plan Act of 2021. Employers must report these wage amounts to employees either on Form W-2, Box 14, or in a separate statement provided with the W-2.

The guidance also contains model language (starting on page 18) that employers can use—as part of the Instructions for Employee for the Form W-2 or on the separate statement provided with the W-2—to explain to employees that these qualified sick and family leave wages may limit the amount of qualified sick leave *equivalent* or qualified family leave *equivalent* credits they may be entitled to for any of their self-employment income. The wage amount required by the notice on the Form W-2 will give employees who are also self-employed the information they need to figure out the amount of any sick and family leave equivalent credits they may claim in their self-employed capacities.

Of note, in July 2020, the IRS issued Notice 2020-54 with guidance about W-2 reporting of qualified sick leave and family leave under FFCRA for wages paid to employees for leave taken in 2020. The IRS has more tax relief information for employers affected by the COVID-19 pandemic on its [website](#).