



# COVID-19 Payroll Opportunities

Got A Payroll? Don't Leave Money On The Table.

# Expanded family and medical leave

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- The Families First Coronavirus Response Act (FFCRA) amends the federal Family and Medical Leave Act (FMLA) for employers with fewer than 500 employees.
- Those employers generally must provide employees who have been on the job for at least 30 calendar days with up to 12 weeks of job-protected leave, part of which is paid.
- The law also generally allows the leave in circumstances where an employee is unable to work due to a need to care for a minor child whose school or paid place of childcare has been closed or is unavailable due to COVID-19.

# Expanded FMLA

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## First two weeks - Paid sick leave

- Must provide 80 hours of paid sick leave for full-time employees in certain situations.
  - Part-time employees are entitled to this paid sick leave for the average number of hours worked over a two-week period.
- Employees are eligible regardless of how long they've worked with the employer, and employers can't require an employee to use other paid leave before the paid sick time.
- An employee qualifies for the leave when he or she is unable to work (or telework) due to any of the following reasons:

# Expanded FMLA

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First two weeks - Paid sick leave – Reasons for leave:

1. Is subject to a COVID-19-related quarantine or isolation order.
2. Has been advised by a healthcare provider to self-quarantine.
3. Is experiencing COVID-19 symptoms and seeking a medical diagnosis.
4. Is caring for an individual subject to a COVID-19-related quarantine or isolation order.
5. Is caring for a son or daughter whose school or place of care has been closed, or whose childcare provider is unavailable, due to COVID-19 precautions.
6. Is experiencing substantially similar conditions specified by the U.S. Secretary of Health and Human Services Alex Azar.

Note that certain exemptions and special rules may apply regarding paid sick leave.

# Expanded FMLA

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For the first 10 days:

- When leave is taken for an employee's own illness or quarantine (reasons 1 through 3 from the prior slide), the leave must be paid at the employee's regular rate, but no higher than \$511 per day (\$5,110 total).
- For leave taken for reasons 4 through 6 on the prior slide, the leave must be paid at two-thirds of the regular rate, capped at \$200 per day (\$2,000 total).

After 10 days, the pay requirement is limited to \$200 per day for the remaining 10 weeks, or \$10,000 total per employee.

# Expanded FMLA – The Credit

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- Employers can fund qualified leave wages (and allocable qualified health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages) by accessing federal employment taxes related to wages paid between April 1, 2020, and December 31, 2020, including withheld taxes, that otherwise must be deposited with the IRS.
- On Form 941, Employers can retain the federal employment taxes that they otherwise would have deposited, including federal income tax withheld from employees, the employees' share of Social Security and Medicare taxes, and the Eligible Employer's share of Social Security and Medicare taxes.

# Expanded FMLA – Exemptions

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- Businesses with fewer than 50 employees may be able to claim an exemption if providing qualified leave wages would jeopardize the viability of the business as a going concern.
- Specifically, this exemption for such small businesses relates to providing paid sick leave and expanded family and medical leave for the purpose of caring for a child, whose school or place of care is closed or whose child care provider is unavailable due to COVID-19-related reasons.
- Any business that claims the exemption is not entitled to tax credits for any qualified leave wages that they are exempt from providing.
- Also note that the FFCRA permits employers whose employees are healthcare providers or emergency responders not to provide qualified sick leave or qualified family leave wages to those employees.

# Tax Credits for Payroll Payors

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## Employee Retention Credit

- Fully refundable employer tax credit
- Taken against the employer portion of Social Security taxes under IRC §3111(a)
- Credit for qualified wages paid after March 12<sup>th</sup>, 2020 and before January 1<sup>st</sup>, 2021
- Equal to 50% of qualified wages employers pay to employees
- Maximums per employee:
  - Wages - \$10,000 per employee
  - Credit - \$5,000 per employee.

Credit is claimed by reducing payroll tax deposit payments first, then applying for refund using Form 7200 – Advance Payment of Employer Credits due to COVID-19



# Tax Credits for Payroll Payors

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## Employee Retention Credit - Example:

- 150 Employees
- Average annual compensation level – \$60,000
- Assuming no employee makes less than \$10,000 between March 13<sup>th</sup> and December 31<sup>st</sup>, then:
- Potentially \$750,000 of tax credit

## **IMPORTANT NOTE:**

Employers that received PPP Loan program funding cannot utilize this credit.

# Tax Credits for Payroll Payors

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- If the amount of the credits exceeds the employer portion of Social Security tax, then the excess is treated as an overpayment and refunded to the employer.
- Consistent with its treatment as an overpayment, the excess will be applied to offset any remaining tax liability on Form 941, Employer's Quarterly Federal Tax Return, and the amount of any remaining excess will be reflected as an overpayment on Form 941. Like other overpayments of federal taxes, the overpayment will be subject to offset under Section 6402(a) of the Code prior to being refunded to the employer.
- Employers may request an advance payment of the tax credits for qualified sick and qualified family leave wages and the employee retention credit by completing Form 7200, Advance of Employer Credits Due to COVID-19, and faxing it to (855) 248-0552.

# Tax Credits for Payroll Payors

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- Wages considered when computing the credit amount won't be taken into account when computing the existing Section 45S business tax credit for paid family and medical leave.
- Any tax credits available to certain self-employed individuals are outside the scope of this discussion.

# Document Retention

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- Eligible Employers claiming the credits for qualified leave wages (and allocable qualified health plan expenses and the Eligible Employer's share of Medicare taxes), **must** retain records and documentation related to and supporting each employee's leave to substantiate the claim for the credits, and retain Form 941, Form 7200, and any other applicable filings made to the IRS requesting the credit.
- With all the new legislation, this comment is broadly applicable – and this is probably the most important slide in the presentation.

# Payroll Tax Deferral

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- The program allows employers to defer payments of the 6.2% employer's share of Social Security taxes required to be made between March 27, 2020, and December 31, 2020.
- According to Internal Revenue Service (IRS) guidance, employers will not be required to make any special election for these deferrals, and no failure to deposit or failure to pay penalties will apply to amounts deferred.
- IRS Form 941, Employer's Quarterly Federal Tax Return, will be revised for the second calendar quarter of 2020 (April – June 2020) to facilitate making these deferrals.
- Any payroll taxes deferred must be paid back in two equal installments—one on December 31, 2021, and the other on December 31, 2022

# Payroll Tax Deferral

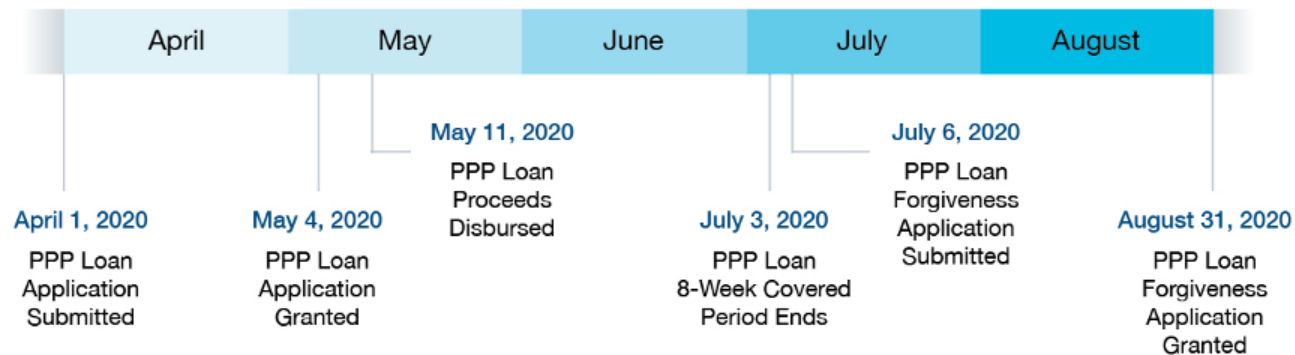
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- According to IRS guidance, an employer should calculate the deferral amount prior to determining its entitlement to the paid leave credits under Sections 7001 or 7003 of FFCRA, or the employee retention credit under Section 2301 of the CARES Act, and prior to determining the amount of
  - a) employment tax deposits that it may retain in anticipation of these credits,
  - b) any advance payments of these credits, or
  - c) any refunds with respect to these credits.

# Payroll Tax Deferral under PPP

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- The deferral program is limited for PPP Loan participants.
- PPP Loan participants are only eligible to defer these payroll tax payments until a determination is made by the Small Business Administration (SBA) about loan forgiveness.
- Here is a typical PPP Loan timeline:



# Form 941 – Modified Remittance

Form **941 for 2020: Employer's QUARTERLY Federal Tax Return** 950120  
 (Rev. April 2020) Department of the Treasury – Internal Revenue Service OMB No. 1545-0029

Employer identification number (EIN)  -  -

Name (not your trade name)

Trade name (if any)

Address  
 Number  Street  Suite or room number   
 City  State  ZIP code   
 Foreign country name  Foreign province/County  Foreign postal code

**Report for this Quarter of 2020**  
 (Check one.)

1: January, February, March  
 2: April, May, June  
 3: July, August, September  
 4: October, November, December  
 Go to [www.irs.gov/Form941](http://www.irs.gov/Form941) for instructions and the latest information.

Read the separate instructions before you complete Form 941. Type or print within the boxes.

**Part 1: Answer these questions for this quarter.**

1 Number of employees who received wages, tips, or other compensation for the pay period including: *June 12* (Quarter 2), *Sept. 12* (Quarter 3), or *Dec. 12* (Quarter 4) . . . . . 1

2 Wages, tips, and other compensation . . . . . 2

3 Federal income tax withheld from wages, tips, and other compensation . . . . . 3

4 If no wages, tips, and other compensation are subject to social security or Medicare tax  Check and go to line 6.

	Column 1	Column 2
5a Taxable social security wages . . . . .	<input type="text"/>	<input type="text"/>
5a (i) Qualified sick leave wages . . . . .	<input type="text"/>	<input type="text"/>
5a (ii) Qualified family leave wages . . . . .	<input type="text"/>	<input type="text"/>
5b Taxable social security tips . . . . .	<input type="text"/>	<input type="text"/>
5c Taxable Medicare wages & tips . . . . .	<input type="text"/>	<input type="text"/>
5d Taxable wages & tips subject to Additional Medicare Tax withholding <input type="text"/>	<input type="text"/>	<input type="text"/>
5e Total social security and Medicare taxes. Add Column 2 from lines 5a, 5a(i), 5a(ii), 5b, 5c, and 5d		5e <input type="text"/>
5f Section 3121(q) Notice and Demand—Tax due on unreported tips (see instructions) . . . . .		5f <input type="text"/>
6 Total taxes before adjustments. Add lines 3, 5e, and 5f . . . . .		6 <input type="text"/>
7 Current quarter's adjustment for fractions of cents . . . . .		7 <input type="text"/>
8 Current quarter's adjustment for sick pay . . . . .		8 <input type="text"/>
9 Current quarter's adjustments for tips and group-term life insurance . . . . .		9 <input type="text"/>
10 Total taxes after adjustments. Combine lines 6 through 9 . . . . .		10 <input type="text"/>
11a Qualified small business payroll tax credit for increasing research activities. Attach Form 8974		11a <input type="text"/>
11b Nonrefundable portion of credit for qualified sick and family leave wages from Worksheet 1		11b <input type="text"/>
11c Nonrefundable portion of employee retention credit from Worksheet 1 . . . . .		11c <input type="text"/>

**You MUST complete all three pages of Form 941 and SIGN it.**

For Privacy Act and Paperwork Reduction Act Notice, see the back of the Payment Voucher. Cat. No. 17001Z Form **941** (Rev. 4-2020)

Name (not your trade name)  Employer identification number (EIN)

**Part 1: Answer these questions for this quarter. (continued)**

11d Total nonrefundable credits. Add lines 11a, 11b, and 11c . . . . . 11d

12 Total taxes after adjustments and nonrefundable credits. Subtract line 11d from line 10 . . . . . 12

13a Total deposits for this quarter, including overpayment applied from a prior quarter and overpayments applied from Form 941-X, 941-X (PR), 944-X, or 944-X (SP) filed in the current quarter . . . . . 13a

13b Deferred amount of the employer share of social security tax . . . . . 13b

13c Refundable portion of credit for qualified sick and family leave wages from Worksheet 1 . . . . . 13c

13d Refundable portion of employee retention credit from Worksheet 1 . . . . . 13d

13e Total deposits, deferrals, and refundable credits. Add lines 13a, 13b, 13c, and 13d . . . . . 13e

13f Total advances received from filing Form(s) 7200 for the quarter . . . . . 13f

13g Total deposits, deferrals, and refundable credits less advances. Subtract line 13f from line 13e . . . . . 13g

14 Balance due. If line 12 is more than line 13g, enter the difference and see instructions . . . . . 14

15 Overpayment. If line 13g is more than line 12, enter the difference  Check one:  Apply to next return  Send a refund.

**Part 2: Tell us about your deposit schedule and tax liability for this quarter.**

If you're unsure about whether you're a monthly schedule depositor or a semiweekly schedule depositor, see section 11 of Pub. 15.

16 Check one:  Line 12 on this return is less than \$2,500 or line 12 on the return for the prior quarter was less than \$2,500, and you didn't incur a \$100,000 next-day deposit obligation during the current quarter. If line 12 for the prior quarter was less than \$2,500 but line 12 on this return is \$100,000 or more, you must provide a record of your federal tax liability. If you're a monthly schedule depositor, complete the deposit schedule below; if you're a semiweekly schedule depositor, attach Schedule B (Form 941). Go to Part 3.

You were a monthly schedule depositor for the entire quarter. Enter your tax liability for each month and total liability for the quarter, then go to Part 3.

Tax liability: Month 1

Month 2

Month 3

Total liability for quarter  Total must equal line 12.


You were a semiweekly schedule depositor for any part of this quarter. Complete Schedule B (Form 941), Report of Tax Liability for Semiweekly Schedule Depositors, and attach it to Form 941. Go to Part 3.

**You MUST complete all three pages of Form 941 and SIGN it.**



# Form 941 – Modified Remittance

## Worksheet 1. Credit for Sick and Family Leave Wages and the Employee Retention Credit

Keep for Your Records 

### Determine how you will complete this worksheet

If you paid both qualified sick and family leave wages and qualified wages for purposes of the employee retention credit this quarter, complete Step 1, Step 2, and Step 3. If you paid qualified sick and family leave wages this quarter but you didn't pay any qualified wages for purposes of the employee retention credit this quarter, complete Step 1 and Step 2. If you paid qualified wages for purposes of the employee retention credit this quarter but you didn't pay any qualified sick and family leave wages this quarter, complete Step 1 and Step 3.

<b>Step 1. Determine the employer share of social security tax this quarter after it is reduced by credits claimed on Form 8974 or Form 5884-C</b>		
1a	Enter the amount of social security tax from Form 941, Part 1, line 5a, column 2	1a _____
1b	Enter the amount of social security tax from Form 941, Part 1, line 5b, column 2	1b _____
1c	Add lines 1a and 1b	1c _____
1d	<b>Employer share of social security tax.</b> Multiply line 1c by 50% (0.50)	1d _____
1e	Enter the amount from Form 941, Part 1, line 11a (credit from Form 8974)	1e _____
1f	Enter the amount from Form 5884-C, line 11, this quarter	1f _____
1g	<b>Total nonrefundable credits already used against the employer share of social security tax.</b> Add lines 1e and 1f	1g _____
1h	<b>Employer share of social security tax remaining.</b> Subtract line 1g from line 1d	1h _____
<b>Step 2. Figure the sick and family leave credit</b>		
2a	Qualified sick leave wages reported on Form 941, Part 1, line 5a(i), column 1	2a _____
2a(i)	Qualified sick leave wages included on line 5c, but not included on Form 941, Part 1, line 5a(i), column 1, because the wages reported on that line were limited by the social security wage base	2a(i) _____
2a(ii)	Total qualified sick leave wages. Add lines 2a and 2a(i)	2a(ii) _____
2b	Qualified health plan expenses allocable to qualified sick leave wages (Form 941, Part 3, line 19)	2b _____
2c	Employer share of Medicare tax on qualified sick leave wages. Multiply line 2a(ii) by 1.45% (0.0145)	2c _____
2d	<b>Credit for qualified sick leave wages.</b> Add lines 2a(i), 2b, and 2c	2d _____
2e	Qualified family leave wages reported on Form 941, Part 1, line 5a(ii), column 1	2e _____
2e(i)	Qualified family leave wages included on line 5c, but not included on Form 941, Part 1, line 5a(ii), column 1, because the wages reported on that line were limited by the social security wage base	2e(i) _____
2e(ii)	Total qualified family leave wages. Add lines 2e and 2e(i)	2e(ii) _____
2f	Qualified health plan expenses allocable to qualified family leave wages (Form 941, Part 3, line 20)	2f _____
2g	Employer share of Medicare tax on qualified family leave wages. Multiply line 2e(ii) by 1.45% (0.0145)	2g _____
2h	<b>Credit for qualified family leave wages.</b> Add lines 2e(ii), 2f, and 2g	2h _____
2i	<b>Credit for qualified sick and family leave wages.</b> Add lines 2d and 2h	2i _____
2j	<b>Nonrefundable portion of credit for qualified sick and family leave wages.</b> Enter the smaller of line 1h or line 2i. Enter this amount on Form 941, Part 1, line 11b	2j _____
2k	<b>Refundable portion of credit for qualified sick and family leave wages.</b> Subtract line 2j from line 2i and enter this amount on Form 941, Part 1, line 13c	2k _____
<b>Step 3. Figure the employee retention credit</b>		
3a	Qualified wages (excluding qualified health plan expenses) for the employee retention credit (Form 941, Part 3, line 21)	3a _____
3b	Qualified health plan expenses allocable to qualified wages for the employee retention credit (Form 941, Part 3, line 22)	3b _____
3c	Qualified wages (excluding qualified health plan expenses) paid March 13, 2020, through March 31, 2020, for the employee retention credit (Form 941, Part 3, line 24). Enter an amount here only for the second quarter Form 941	3c _____
3d	Qualified health plan expenses allocable to qualified wages paid March 13, 2020, through March 31, 2020, for the employee retention credit (Form 941, Part 3, line 25). Enter an amount here only for the second quarter Form 941	3d _____
3e	Add lines 3a, 3b, 3c, and 3d	3e _____
3f	<b>Retention credit.</b> Multiply line 3e by 50% (0.50)	3f _____
3g	Enter the amount of the employer share of social security tax from Step 1, line 1h	3g _____
3h	Enter the amount of the nonrefundable portion of the credit for qualified sick and family leave wages from Step 2, line 2j	3h _____
3i	Subtract line 3h from line 3g	3i _____
3j	<b>Nonrefundable portion of employee retention credit.</b> Enter the smaller of line 3f or line 3i. Enter this amount on Form 941, Part 1, line 11c	3j _____
3k	<b>Refundable portion of employee retention credit.</b> Subtract line 3j from line 3f and enter this amount on Form 941, Part 1, line 13d	3k _____

**Caution:**  
Only complete lines 3c and 3d for your second quarter 2020 Form 941.

# Form 7200 – Advance Payment Request

<b>Form 7200</b> (March 2020) Department of the Treasury Internal Revenue Service	<b>Advance Payment of Employer Credits Due to COVID-19</b>  ► Go to <a href="http://www.irs.gov/Form7200">www.irs.gov/Form7200</a> for instructions and the latest information.	OMB No. 1545-0029
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Name (not your trade name)		Employer identification number (EIN)
Trade name (if any)		Applicable calendar quarter (check one)
Number, street, and apt. or suite no. If a P.O. box, see instructions.		(2) <input type="checkbox"/> April, May, June
City or town, state, and ZIP code. If a foreign address, also complete spaces below. (See instructions.)		(3) <input type="checkbox"/> July, August, September
Foreign country name		(4) <input type="checkbox"/> October, November, December
Foreign province/county		
Foreign postal code		
Does a third-party payer file your employment tax return? (See instructions.) If "Yes," enter its name.		Third-party payer's EIN (if applicable)

**Tip:** File Form 7200 if you can't reduce your employment tax deposits to fully account for these credits that you expect to claim on your employment tax return for the applicable quarter. Don't reduce your employment tax deposits and request advanced credits for the same expected credits. You will need to reconcile your advanced credits and reduced deposits on your employment tax return. You can't request an advance payment of the credit for sick and family leave for self-employed individuals.

## Part I Tell Us About Your Employment Tax Return

- A** Check the box to indicate which employment tax return form you file (or will file for 2020):  
 (1)  941, 941-PR, or 941-SS    (2)  943 or 943-PR    (3)  944 or 944(SP)    (4)  CT-1
- B** Is this a new business started on or after January 1, 2020? . . . . . ►  Yes     No  
 If "Yes," skip line C unless you've already filed Form 941, Form 941-PR, or Form 941-SS for at least one quarter of 2020.
- C** Amount reported on line 2 of your most recently filed Form 941 (or wages reported on Schedule R (Form 941), column (c), by your third-party payer (see instructions)). If you file a different employment tax return, see instructions . . . . . ►
- D** Enter the total number of employees you have. See instructions . . . . . ►

## Part II Enter Your Credits and Advance Requested

1 Total employee retention credit for the quarter. See instructions . . . . .	1	
2 Total qualified sick leave wages eligible for the credit and paid this quarter. See instructions . . . . .	2	
3 Total qualified family leave wages eligible for the credit and paid this quarter. See instructions . . . . .	3	
4 Add lines 1, 2, and 3 . . . . .	4	
5 Total amount by which you have already reduced your federal employment tax deposits for these credits for this quarter . . . . .	5	
6 Total advanced credits requested on previous filings of this form for this quarter	6	
7 Add lines 5 and 6 . . . . .	7	
8 <b>Advance requested.</b> Subtract line 7 from line 4. If zero or less, don't file this form . . . . .	8	

# Other Payroll and Retirement Benefits

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- Penalty-free early retirement distributions for 2020
  - Must have been diagnosed with COVID-19, or
  - Have a spouse or dependent diagnosed with COVID-19, or
  - Experience adverse financial consequences as a result of:
    - Quarantine
    - Furlough
    - Lay off
    - Reduction in work hours
    - Limited work hours due to lack of child-care, or
    - Closure of an owned business
- Waived required minimum distribution rules

# Payroll Defined

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## **Payroll Costs as Defined in the PPP and SBA rules –**

- Compensation (salary, wage, commission, or similar compensation, payment of cash tip or equivalent)
- Vacation, parental, family, medical, or sick leave payments
- Dismissal or separation payments
- Group healthcare benefit payments, including insurance premiums
- Retirement benefit payments
- State or local tax assessed on the compensation of employees.

# Payroll Definition Exclusions

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The following are items **excluded** from payroll costs under the PPP and related SBA rules:

- Amounts paid to independent contractors
- Cash compensation of over \$100,000 for any individual
- Payroll taxes
- Railroad taxes and retirement benefits
- Income taxes withheld on wages
- Compensation of employees whose principal place of residence is outside the United States