Apr 16, 2020

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Coronavirus Response Team
Tax Law Defined™ Blog

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IRS issues FAQ on Deferring Employment Tax Deposits

The Coronavirus Aide, Relief and Economic Security Act (CARES Act) provides businesses with various forms of relief aimed at easing the fallout from the economic downturn and keeping employees on the payroll. One such relief package allows employers to defer the deposit and payment of the employer's share of Social Security taxes and self-employed individuals to defer payment of certain self-employment taxes. The IRS recently came out with an FAQ on the rules for deferring employment tax deposit payments.[1] The following paragraphs answer a few of the questions facing businesses that are attempting to defer employment taxes.

Q: *What deposits and payments of employment taxes are employers entitled to defer?*
A: Section 2302 of the CARES Act provides that employers may defer the deposit and payment of the employer's portion of Social Security taxes and certain Railroad Retirement taxes.[2]

Q: *When can employers begin deferring deposit and payment of the employer's share of the Social Security tax without incurring failure to deposit and failure to pay penalties?*
A: The deferral applies to deposits and payments of the employer's share of Social Security tax that would otherwise be required to be made during the period beginning March 27, 2020, and ending Dec. 31, 2020.[3]

Q: *Which employers may defer deposit and payment of the employer's share of Social Security tax without incurring failure to deposit and failure to pay penalties?*
A: All employers may defer the deposit and payment of the employer's share of Social Security tax. However, employers that receive a loan under the Small Business Administration Act may not defer the deposit and payment of the employer's share of Social Security tax due on or after the date that the loan is forgiven under the CARES Act.[4]

Q: *What are the applicable dates by which deferred deposits of the employer's share of Social Security tax must be deposited to be*

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treated as timely (and avoid a failure to deposit penalty)?
A: The deferred deposits of the employer's share of Social Security tax must be deposited by the following dates to be treated as timely and in order to avoid a failure to deposit penalty:

- December 31, 2021, 50% of the deferred amount; and
- December 31, 2022, the remaining amount.

For more information, please contact Bob Webb or any attorney in Frost Brown Todd's Tax practice group.

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a Coronavirus Response Team. Our attorneys are on hand to answer your questions and provide guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.

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[1] https://www.irs.gov/newsroom/deferral-of-employment-tax-deposits-and-payments-through-december-31-2020

[2] Much of the Railroad Retirement taxes under IRC Section 3221(a) are tied to the Social Security tax rates found in IRC Section 3111.

[3] Self-employed individuals are able to defer payment of 50% of the Social Security tax on net earnings from self-employment income during the same period.

[4] This includes loans issued under the SBA's Paycheck Protection Program.

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