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IRS Clarifies How Payroll Tax Deferral Works

One of the tax provisions in the CARES Act designed to give businesses immediate help with their cash flow allows them to defer payment of the employer's Social Security tax of 6.2% (OASDI) of employee wages (up to an annual limit) incurred from March 27, 2020 through December 31, 2020. One half of the deferred amount will be due on December 31, 2021, and the other half will be due on December 31, 2022. This relief is available to all businesses, irrespective of the extent to which they are impacted by the coronavirus pandemic, except that this break does not apply to taxpayers who receive a loan through the SBA's new Paycheck Protection Program (PPP) that is forgiven. Employers were unsure if they could utilize this relief prior to either receiving a PPP loan or securing loan forgiveness.

On April 10, the IRS released guidance on the ability of businesses to defer payment of the employer's share of Social Security tax, including a welcome clarification of how this provision works in conjunction with Paycheck Protection Program. One of the FAQs confirms that an employer who has received a PPP loan can still defer payment of its share of Social Security tax without penalty through the date the lender issues a decision to forgive the loan. Upon notification of loan forgiveness, the employer may no longer continue to defer payment. However, the amount that was deferred through the date the PPP loan was forgiven continues to be deferred, with fifty percent of the deferred amount due December 31, 2021 and the remaining fifty percent due December 31, 2022.

Another FAQ states that Form 941, Employer's Quarterly Federal Tax Return, will be revised for the second quarter of 2020 (April – June 2020), and information will be provided soon to instruct employers how to reflect the deferred payments otherwise due on or after March 27, 2020 for the first quarter of 2020 (January – March 2020).

Employers will not be required to make a special election to defer payments of these employment taxes. Also, taxpayers may defer payment of the employer's share of Social Security tax prior to determining whether they are eligible for the paid leave or employee retention credits, and prior to determining the amount of employment tax deposits that they may retain in anticipation of these credits, the amount of any advance payments of these credits or the amount of any refunds with respect to these credits.

Finally, the guidance confirms that self-employed individuals may defer payment of fifty percent of the Security Social tax on net earnings from self-employment income from March 27 through December 31 of this year, and the amount deferred is ignored for purposes of calculating estimated tax payments.

Contact Us

If you have further questions regarding the deferral of payroll taxes, or any other tax provision in the CARES Act, please contact your Bennett Thrasher tax advisor or call 770.396.2200.