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IRS Updating Form 941 to Accommodate New Employment Tax Credits

At the end of April, the IRS issued drafts of the **2020 Form 941**, *Employer's Quarterly Federal Tax Return*, and its **instructions** to be used beginning with the second quarter return (April 1 to June 30) that must be filed by July 31. The form has "significant changes" to allow reporting of new employment tax credits and other tax relief related to the novel coronavirus (COVID-19). The IRS issued a draft of the **Form 941, Schedule R, Allocation Schedule for Aggregate Form 941 Filers**, to account for the Form 941 line changes. The draft forms cannot be filed, but the IRS should release the final versions soon.

The IRS is significantly revising Form 941 to account for refundable employment tax credits included in the Families First Coronavirus Response Act (FFCRA) and the employee retention credit and the deferral of the employer portion of social security tax included in the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Background

Qualified leave. The FFCRA requires employers with fewer than 500 employees to provide emergency sick leave and expanded family and medical leave (together, qualified leave) related to COVID-19. These businesses are eligible to claim the credit for qualified leave wages for the period from April 1 to December 31, 2020. The credit consists of the qualified leave wages and the qualified health plan expenses (amounts paid or incurred by the employer to maintain or provide a group health plan) and

the employer share of Medicare tax allocated to those wages.

Employee retention credit. The CARES Act creates an employee retention credit equal to 50% of qualified wages paid to employees between March 13 and December 31, 2020. Qualified wages are limited to a maximum of \$10,000 per employee total. Qualified wages are wages for social security and Medicare tax purposes paid to certain employees during a quarter in which operations are fully or partially suspended due to a government order or during a quarter with a significant decline in gross receipts (less than 50% of what they were in the same calendar quarter in 2019).

The qualified wages calculation depends on the size of an employer's workforce:

- Eligible employers with an average number of 100 or fewer full-time employees during 2019 count wages paid to all employees.
- Eligible employers with more than 100 full-time employees in 2019 may count only wages paid to employees for time these employees were not working due to the COVID-19-related crisis.

Reducing deposits for COVID-19 credits. Employers eligible to claim the qualified leave credit and/or the employee retention credit can reduce their deposits by the amount of their anticipated credits. Employers will not be subject to penalties for reducing their deposits if certain

conditions are met. These reductions are in addition to the optional deferral of deposits of the employer's share of social security tax.

Tax deposit deferral. Certain employers may defer the deposit and payment of the employer share of social security tax that would otherwise be due during the quarter. Employers that received a Paycheck Protection Program Loan may **not** defer the deposit and payment of the employer share of social security tax that is otherwise due **after** the employer receives a decision from the lender that the loan was forgiven. The deferral only applies for deposits due on or after March 27, 2020, and before January 1, 2021. The deferral of the employer share of social security tax is a deferral of deposits and payments, not a deferral of liability. Employers will not receive a refund or credit of any amount already deposited for the quarter. One-half of the amount deferred is due by December 31, 2021, and the remainder is due by December 31, 2022.

Notes for Form 941

Employee retention credit for wages paid in March. Employers that paid any qualified wages and their associated qualified health plan expenses between March 13-31, 2020, will report that information on Lines 24 and 25 of their second quarter Form 941 to claim the credit.

Reporting of advance credits. Employers that requested an advance of the qualified leave credits and/or the employee retention credit by filing Form 7200, *Advance Payment of Employer Credits Due to COVID-19*, will report the amount of the advances on the revised Form 941.

General changes. The revised Form 941 will be three pages instead of two. A note at the bottom of the first page states employers must complete all three pages of Form 941 and sign it. In the Report for this Quarter of 2020 box on the first page, the first quarter box is grayed out as the revised form cannot be filed for the first quarter.

New worksheet to calculate credits

The instructions contain a new worksheet: Worksheet 1, Credit for Sick and Family Leave Wages and the Employee Retention Credit. The worksheet has three steps, which an employer will complete based on the type of qualified wages it paid during the quarter.

- Steps 1, 2, and 3 will be completed by employers that paid both qualified sick and family leave wages and qualified wages for the employee retention credit.
- Steps 1 and 2 will be completed by employers that paid only qualified sick and family leave wages.
- Steps 1 and 3 will be completed by employers that paid only qualified wages for the employee retention credit.
- Employers that paid qualified employee retention credit wages and their associated health plan expenses between March 13-31, 2020, will complete Steps 3c and 3d.

What's new overview

- The new credit for qualified leave wages is reported on Line 11b and, if applicable, on Line 13c. The employee share of social security tax on qualified leave wages is

reported on Lines 5a(i) and 5a(ii). Qualified leave wages are not subject to the employer share of social security tax. Qualified health plan expenses allocable to qualified leave wages are reported on Lines 19 and 20. The credit for qualified leave wages is figured on Worksheet 1.

- The employee retention credit is reported on Line 11c and, if applicable, on Line 13d. Qualified wages are reported on Line 21. Qualified health plan expenses for these qualified wages are reported on Line 22. The amount of the employee retention credit is figured on Worksheet 1.
- Employers that defer the deposit and payment of the employer share of social security tax otherwise due during the calendar quarter will report this amount on Line 13b.

New and revised instructions

Part 1: Answer these questions for the quarter.

Lines 1-4 are unchanged (except for the reference to March 12 on Line 1, which has been removed).

Lines 5a-5e. Taxable Social Security and Medicare Wages and Tips.

Line 5a. Taxable social security wages. Enter the total wages, including qualified wages for the employee retention credit, sick pay, and taxable fringe benefits subject to social security taxes paid to employees during the quarter. Do not include the qualified sick leave wages reported on Line 5a(i) or qualified family leave wages reported on Line 5a(ii). Do not include tips on this line.

Line 5a(i). Qualified sick leave wages. Enter the qualified sick leave wages paid to employees during the quarter. These are not subject to the employer share of social security tax, so the tax rate on these wages is 6.2%.

Line 5a(ii). Qualified family leave wages. Enter the qualified family leave wages paid to employees during the quarter. These are not subject to the employer share of social security tax, so the tax rate on these wages is 6.2%.

Note: Stop paying social security tax on and entering an employee's wages on Lines 5a(i) and 5a(ii) when the employee's taxable wages, including wages reported on Line 5a, reaches the social security wage base for the year (\$137,700).

Line 5b. Taxable social security tips. Enter all tips employees reported during the quarter until the total of the tips and taxable wages, including qualified leave wages, for an employee reaches \$137,700 for the year.

Line 5c. Taxable Medicare wages and tips. Enter all wages, including qualified sick leave wages, qualified family leave wages, and qualified wages for the employee retention credit; tips; sick pay; and taxable fringe benefits subject to the Medicare tax.

Line 5d. Taxable wages and tips subject to Additional Medicare Tax withholding. Enter all wages, including qualified sick leave wages, qualified family leave wages, and qualified wages for the employee retention credit; tips; sick pay; and taxable fringe benefits subject to Additional Medicare Tax withholding.

Line 5e. Total social security and Medicare taxes. Add Column 2 from Lines 5a, 5a(i), 5a(ii), 5b, 5c, and 5d.

Line 5f. Section 3121(q) Notice and Demand – Tax due on

unreported tips. Enter the tax due from §3121(q) Notice and Demand.

Lines 6-11a are unchanged (except the reference to Line 11 was changed to 11a).

Line 11b. Nonrefundable portion of credit for qualified sick and family leave wages from Worksheet 1. Enter the amount from Worksheet 1, Step 2, Line 2j. The nonrefundable portion of the credit is limited to the employer share of social security tax reported on Lines 5a and 5b, after that share is first reduced by any credits claimed on Form 8974, *Qualified Small Business Payroll Tax Credit for Increasing Research Activities*, and/or Form 5884-C, *Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans*. Any credit in excess of the remaining amount is refundable and reported on Line 13c.

Line 11c. Nonrefundable portion of employee retention credit from Worksheet 1. Enter the amount from Worksheet 1, Step 3, Line 3j. The nonrefundable portion of the credit is limited to the employer share of social security tax reported on Lines 5a and 5b, after that share is first reduced by any credits claimed on Form 8974, Form 5884-C, and/or for the nonrefundable portion of the credit for qualified sick and family leave wages. Any credit in excess of the remaining amount is refundable and reported on Line 13d.

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

Line 12 is unchanged (except the reference to Line 11 is now to Line 11d).

Line 13a. Total deposits for this quarter. Enter deposits for this quarter, including any overpayment from a prior quarter applied to this return. Also include any overpayment applied from filing Form 941-X, *Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund*, in the current quarter. Do not include any amount not deposited because it was deferred as the employer share of social security tax or in anticipation of the credit for qualified leave wages or the employee retention credit.

Line 13b. Deferred amount of the employer share of social security tax. Enter the amount of the employer share of social security tax deferred for the quarter. Do not include the amounts reported on Lines 5a(i) and 5a(ii). Do not reduce the amount reported on Line 13b by any credits claimed on Lines 11a, 11b, or 11c. An employer cannot defer tax it has already paid; the maximum amount that can be deferred each quarter is the employer share of social security tax, minus any excess of total deposits (Line 13a) over the difference between total taxes after adjustments (Line 10) and the employer share of social security tax (50% of column 2 of Line 5a and 50% of column 2 of Line 5b).

Note: One-half of the amount reported on Line 13b is due by December 31, 2021, and the remainder is due by December 31, 2022.

Line 13c. Refundable portion of credit for qualified sick and family leave wages from Worksheet 1. Enter the amount from Worksheet 1, Step 2, Line 2k. The refundable portion

of the credit is allowed after the employer share of social security tax reported on Lines 5a and 5b is reduced to zero by nonrefundable credits.

Line 13d. Refundable portion of employee retention credit from Worksheet 1. Enter the amount from Worksheet 1, Step 3, Line 3k. The refundable portion of the credit is allowed after the employer share of social security tax reported on Lines 5a and 5b is reduced to zero by nonrefundable credits.

Line 13e. Total deposits, deferrals, and refundable credits. Add Lines 13a, 13b, 13c, and 13d and enter the total on Line 13e.

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

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

Lines 14 and 15 are unchanged, except for the references to Line 13g instead of Line 13.

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

Here are instruction changes for Part 2.

Adjusting tax liability for nonrefundable credits claimed on Lines 11a, 11b, and 11c. Monthly schedule depositors and semiweekly schedule depositors must account for nonrefundable credits claimed on Lines 11a, 11b, and 11c when reporting tax liabilities on Line 16 or Form 941, Schedule B. The total tax liability for the quarter must equal the amount reported on Line 12. Failure to account for the nonrefundable credits on Line 16 or Schedule B may cause Line 16 or Schedule B to report more than the total tax liability reported on Line 12.

Nonrefundable portion of credit for qualified sick and family leave wages (Line 11b). The nonrefundable portion of the credit for qualified leave applies to the employer share of social security tax on wages paid in the quarter that is remaining after it is reduced by any credit claimed on Line 11a, for the qualified small business payroll tax credit for increasing research activities, and/or Form 5884-C, Line 11. When completing Line 16 or Schedule B, take into account the credit for sick and family leave wages against the liability for the employer share of social security tax starting with the first payroll payment of the quarter that includes payments of wages subject to social security tax to employees. The credit may be taken to the extent of the employer share of social security tax on wages associated with the first payroll payment, and then to the extent of the employer share of social security tax associated with succeeding payroll payments in the quarter until the credit is used. Do not reduce the monthly tax liability reported on Line 16 or the daily tax liability reported on Schedule B below zero. The nonrefundable portion of the credit should be taken into account in making employment tax deposits. Any credit remaining at the end of the quarter because it exceeds the employer share of social security tax for the quarter is claimed on Line 13c as a refundable credit.

Nonrefundable portion of employee retention credit (Line

11c). The nonrefundable portion of the employee retention credit applies to the employer share of social security tax on wages paid in the quarter that is remaining after it is reduced by any credit claimed on Line 11a; the qualified small business payroll tax credit for increasing research activities; Form 5884-C, Line 11; and/or Line 11b, for the nonrefundable portion of the credit for qualified sick and family leave wages. In completing Line 16 or Schedule B, take into account the employee retention credit against the liability for the employer share of social security tax starting with the first payroll payment of the quarter that includes payments of wages subject to social security tax to employees. The credit may be taken to the extent of the employer share of social security tax on wages associated with the first payroll payment, and then to the extent of the employer share of social security tax associated with succeeding payroll payments in the quarter until the credit is used. Do not reduce monthly tax liability reported on Line 16 or daily tax liability reported on Schedule B below zero. The nonrefundable portion of the employee retention credit should be taken into account in making employment tax deposits. Any employee retention credit that is remaining at the end of the quarter because it exceeds the employer share of social security tax for the quarter is claimed on Line 13d as a refundable credit.

Part 3: Tell us about your business.

Lines 19-25. Amounts entered in Lines 19-25 are used on Worksheet 1 to figure the credit for sick and family leave

wages and the employee retention credit. Enter these amounts if claiming the credits.

Line 19. *Qualified health plan expenses allocable to qualified sick leave wages.* This amount is also entered on Worksheet 1, Step 2, Line 2b.

Line 20. *Qualified health plan expenses allocable to qualified family leave wages.* This amount is also entered on Worksheet 1, Step 2, Line 2f.

Line 21. *Qualified wages for the employee retention credit.* This amount is also entered on Worksheet 1, Step 3, Line 3a.

Line 22. *Qualified health plan expenses allocable to wages reported on Line 21.* This amount is also entered on Worksheet 1, Step 3, Line 3b.

Line 23. *Credit from Form 5884-C, Line 11, for this quarter.* If applicable, enter the credit from Line 11 of Form 5884-C.

Note: Lines 24 and 25 are used only on the second quarter 2020 Form 941.

Line 24. *Qualified wages paid March 13 through March 31, 2020, for the employee retention credit.* Enter the qualified wages (excluding the amount of any qualified health plan expenses allocable to these wages) paid March 13-31, 2020, for the employee retention credit. This amount is also entered on Worksheet 1, Step 3, Line 3c.

Line 25. *Qualified health plan expenses allocable to wages reported on Line 24.* Enter the qualified health plan expenses allocable to the wages reported on Line 24. This amount is also entered on Worksheet 1, Step 3, Line 3d. ■

Social Security Trustees Project \$141,900 Wage Base for 2021

The Board of Trustees of the Social Security Trust Fund reports each year on the financial condition of the social security program. *The 2020 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds*, issued on April 22, includes both short- and long-term projections about the social security system. The projections, which are only an indication of the expected trend, are based on social security program provisions in current law and do not take into account any changes in these provisions that might be made in the future.

Intermediate projections: Wage base

Using “intermediate” forecasting assumptions (described as “best estimates”) and projecting out nine years, the report estimates that the social security wage base will be \$141,900 in 2021 (up from \$137,700 this year) and will increase to \$192,900 by 2029. Note that these numbers are only estimates. The formal announcement of the 2021 wage base will not come until mid-October.

Calendar Year	Estimated Wage Base (Intermediate Estimate)
2021	\$141,900
2022	\$147,000
2023	\$153,600

Calendar Year	Estimated Wage Base (Intermediate Estimate)
2024	\$159,900
2025	\$165,900
2026	\$172,200
2027	\$178,800
2028	\$185,700
2029	\$192,900

Long-term projections: Trust fund solvency

Again, using “intermediate” forecasting assumptions, the report projects a mixed picture for the social security trust funds (the Old-Age and Survivors Insurance trust fund and the Disability Insurance trust fund) over the next several years. Under the intermediate assumptions, social security’s total cost is projected to be higher than its total income in 2021 and all later years. Social security’s cost has exceeded its non-interest income since 2010. For 2020, program cost is projected to be less than total income by about \$4 billion and exceed non-interest income by about \$73 billion.

Beginning in 2021, trust fund assets will diminish until they become exhausted in 2035. Non-interest income is projected to be sufficient to cover 79% of scheduled benefit payments for 2035, declining to 73% for 2094. ■