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IRS Clarifies Tax Deferral Eligibility for Employers with PPP Loans

Background

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed into law on March 27, 2020. One much discussed provision of this act is the Paycheck Protection Program (PPP), which offers potentially forgivable loans to employers to cover payroll costs and some other business expenses during the COVID-19 crisis. Another provision of the CARES Act permits employers to defer payment of the employer portion of social security taxes. Employers who take advantage of this provision would have to pay 50% of the deferred amount on December 31, 2021, and the remaining amount on December 31, 2022, spreading the cost out over two years.

One major question that has arisen for employers is how these two provisions interact for employers who have received a PPP loan but still wish to defer their social security tax payments.

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To address this question and others, the IRS has offered clarification in the form of FAQs, which can be found [here](#).

Summary

The IRS has clarified that employers who receive a PPP loan can still defer the employer portion of their social security tax payments up until the point when they receive notice that their loan will be forgiven. As soon as the employer is informed by the lender that the PPP loan will be forgiven, from that point forward, they must go back to depositing and paying social security taxes immediately. Tax payments that have already been deferred up to that point do not need to be repaid at the time when the loan is forgiven, but rather are due according to the schedule described above — 50% due December 31, 2021, and 50% due December 31, 2022.

For more details, follow the link above to the IRS FAQs on this subject.

Employer Next Steps

- Employers who have received a PPP loan should take notice that they are eligible to defer the employer portion of social security tax payments up until the loan is forgiven.
- Employers should carefully document any tax payments made or deferred to ensure they repay the correct amount on the “applicable dates” listed above.
- Employers should work with their financial institutions and financial advisors with any questions regarding the PPP loan.

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