

Client Impact Event

## CARES Act: Delayed Payment of Employer Payroll Taxes

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### The CARES Act provides relief by deferring payroll tax payments as a result of COVID-19.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act provides emergency assistance and health care response for individuals, families and businesses as a result of the 2020 coronavirus (COVID-19) pandemic. In order to free up employers' cash flow and retain employees during times of quarantine or shutdown, the CARES Act defers the employer portion of payroll taxes. In addition to the payroll tax deferral, the CARES Act also provides for an employee retention credit and advance payment of payroll credits for employee paid sick and family leave.

Payroll taxes due from the period beginning on March 27, 2020, the date the CARES Act is signed into law, and ending on December 31, 2020 can be deferred. The total payroll taxes incurred by employers and 50% of payroll taxes incurred by self-employed persons qualify for the deferral.

#### Background

The Federal Insurance Contributions Act tax (FICA tax) is imposed on employee wages. The employer withholds the employee share of FICA tax from wages it pays to the employee, and also pays the employer share of FICA tax based on those wages. Whether the FICA tax applies depends on whether a worker is an employee and is paid wages under the FICA tax rules.

FICA tax has two components:

- 6.2% Social Security tax (old-age, survivors and disability insurance (OASDI) tax); and
- 1.45% Medicare tax (hospital insurance tax (HI)).

FICA taxes are imposed on both the employer and the employee at a rate of 6.2% for OASDI and 1.45% for HI for a total of 7.65% for the employee and 7.65% for the employer (15.3% total). The employer is liable for the correct amount of employee tax on all wages paid to its employees, whether or not the tax is collected from the employees. Until the tax is collected by the employer, the employee is also liable for the employee portion. Employers must report FICA taxes and deposit the amounts paid and withheld.

*FICA tax deposits.* An employer generally must deposit FICA taxes (and income taxes) withheld on wages on either a monthly or semiweekly basis, based on the employers' employment tax reporting history during a lookback period.

#### New Legislation Explained

The employer portion of payroll taxes due from the period beginning on March 27, 2020 and ending on December 31, 2020 are deferred. During this payroll tax deferral period, the total payroll taxes incurred by employers and 50% of payroll taxes by self-employed individuals incurred for OASDI qualify for the deferral.

The extended deadline for the payroll tax deferral period is:

- 50% of the deferred payroll taxes are due on December 31, 2021; and
- the remaining 50% is due on December 31, 2022.

*Timely deposits.* An employer will be treated as having timely made all deposits of applicable employment taxes that are required to be made for the payroll taxes during the payroll tax deferral period if all deposits are made not later than the applicable date.

*Taxpayers excluded from payroll tax deferral.* The deferral does not apply to any taxpayer that has had debt forgiven under Act Sec. 1106 of the CARES Act (regarding a loan guaranteed under the Paycheck Protection Program of the Small Business Act (15 U.S.C. 636(a)(36))), or debt forgiven under Act Sec. 1109 of the CARES

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Act (regarding loans under U.S. Treasury Program Management Authority) (Act Sec. 2302(a)(3) of the CARES Act).

## Client Application

Inform your individual and business clients of the payroll tax deferral as a result of the CARES Act. The CARES Act provides the employment tax deferral of the employer portion of OASDI taxes and 50% of the payroll tax for self-employed persons due from the period beginning on March 27, 2020, the date the CARES Act is signed into law, and ending on December 31, 2020.

The employer portion of OASDI taxes can be paid over the following 2 years:

- 50% of the deferred payroll taxes are due on December 31, 2021; and
- the remaining 50% is due on December 31, 2022.

## Client Profile

Employers and self-employed persons who pay wages.

## Effective Date

The payroll tax deferral period is effective on March 27, 2020 until December 31, 2020, for the employer portion of payroll taxes and 50% of payroll taxes incurred by self-employed persons.