

2020

National Income Tax Workbook

Chapter 16: New legislation

Part 2



THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

- Employer Credit for Sick and Family Leave
 - Required paid leave for employees unable to work due to COVID-19
 - Credit available to employers/self-employed persons
 - Immediate access to funds via reduction of payroll tax deposits
 - Excess credit received by requesting an advance from IRS
- Eligible Employers
 - Paid qualified wages
 - Paid 4/1/2020 thru 12/31/2020
 - Employers with fewer than 500 employees

PAID SICK LEAVE CREDIT/PAID FAMILY LEAVE CREDIT

■ Figure 16.1

- Why is employee unable to work?
- How much is the credit?

EMERGENCY PAID SICK LEAVE ACT

- Private employer <500 employees
- Provide 80 hours of paid sick time for 6 reason related to COVID-19:
 1. Employee is subject to a federal, state, or local quarantine or isolation order
 2. A health provider advised the employee to self-quarantine
 3. Employee is experiencing symptoms of COVID-19 and is seeking a diagnosis.
 4. The employee is caring for an individual described in categories 1 or 2.
 5. The employee is caring for a son or daughter whose school or place of care is closed, or the childcare provider is unavailable
 6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

EMERGENCY PAID SICK LEAVE ACT

- Limits apply:
 - Categories 1, 2 & 3
 - \$511/day
 - Not more than \$5,110/employee
 - Categories 4 & 5
 - 2/3 of regular pay
 - Not more than \$2,000/employee

EMERGENCY PAID SICK LEAVE ACT

- Special rules for part-time employees
- Leave available immediately
- Calculated on employee's regular compensation
- Employee must submit acceptable documentation

PAYROLL CREDIT FOR REQUIRED PAID SICK LEAVE

- Limited to 10 days over the aggregate number of days included for all preceding calendar quarters
- Limited to certain employment taxes
- Excess is refundable
- Increased by employer's qualified healthcare expenses
- Cannot claim the credit for wages used to claim a credit under I.R.C. § 45S (Employer Credit for Paid Family and Medical Leave)

CREDIT FOR SICK LEAVE FOR SELF-EMPLOYED

- An eligible self-employed person:
 - Regularly carries on a trade or business (IRC § 1402)
 - Entitled to paid leave under the Act if individual was an employee
 - 100% credit for categories 1,2 and 3
 - 67% credit for categories 4,5 and 6

EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT

- Fewer than 500 employees
- Need related to public health emergency
 - Unable to work or telework to be able to care for their child under 18 because school/childcare provider closed due to COVID-19
- Employee employed at 30 days
 - Included provision for laid off workers who were rehired

EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT



**First 10 days may be unpaid
(can use PTO, vacation, sick leave)**



After 10 days employer required to pay

Not less than 2/3 of regular pay x number
of hours employee would have normally
worked

Limited to \$200/day

Maximum \$10,000/employee

PAYROLL CREDIT FOR PAID FAMILY LEAVE



100% refundable



Credit increased by employer's qualified health plan expenses



No double credit allowed



Similar refundable credits for self-employment

POLLING QUESTION 1

- How many PPP loans did you help taxpayers get?
 - a. 1-25
 - b. 25-50
 - c. 51-100
 - d. 101 or more

CLAIMING THE CREDIT

1. Retain payroll taxes in the amount of the qualified payments
2. If tax deposits are insufficient to cover the credit, file Form 7200
3. Self-employed taxpayers cannot claim an advanced credit

Example 16.1

Employer identification number (EIN) -

Name (not your trade name)

Trade name (if any)

Address

Number Street Suite or room number

City State ZIP code

Foreign country name Foreign province/county Foreign postal code

Report for this Quarter of 2020
 (Check one.)

1: January, February, March

2: April, May, June

3: July, August, September

4: October, November, December

Go to www.irs.gov/Form941 for instructions and the latest information.

Read the separate instructions before you complete Form 941. Type or print within the boxes.

Part 1: Answer these questions for this quarter.

1	Number of employees who received wages, tips, or other compensation for the pay period including: June 12 (Quarter 2), Sept. 12 (Quarter 3), or Dec. 12 (Quarter 4)	1	<input type="text"/>
2	Wages, tips, and other compensation	2	<input type="text"/>
3	Federal income tax withheld from wages, tips, and other compensation	3	<input type="text"/>
4	If no wages, tips, and other compensation are subject to social security or Medicare tax	<input type="checkbox"/> Check and go to line 6.	
		Column 1	Column 2
5a	Taxable social security wages	<input type="text"/>	<input type="text"/>
5b	(i) Qualified sick leave wages	<input type="text"/>	<input type="text"/>
5c	(ii) Qualified family leave wages	<input type="text"/>	<input type="text"/>
5d	Taxable social security tips	<input type="text"/>	<input type="text"/>
5e	Taxable Medicare wages & tips	<input type="text"/>	<input type="text"/>
5f	Taxable wages & tips subject to Additional Medicare Tax withholding	<input type="text"/>	<input type="text"/>
5g	Total social security and Medicare taxes. Add Column 2 from lines 5a, 5b(i), 5b(ii), 5d, 5e, and 5f	5g	<input type="text"/>
5h	Section 3121(q) Notice and Demand—Tax due on unreported tips (see instructions)	5h	<input type="text"/>
6	Total taxes before adjustments. Add lines 5g, 5h, and 5f	6	<input type="text"/>
7	Current quarter's adjustment for fractions of cents	7	<input type="text"/>
8	Current quarter's adjustment for sick pay	8	<input type="text"/>
9	Current quarter's adjustments for tips and group-term life insurance	9	<input type="text"/>
10	Total taxes after adjustments. Combine lines 6 through 9	10	<input type="text"/>
11a	Qualified small business payroll tax credit for increasing research activities. Attach Form 8974	11a	<input type="text"/>
11b	Nonrefundable portion of credit for qualified sick and family leave wages from Worksheet 1	11b	<input type="text"/>
11c	Nonrefundable portion of employee retention credit from Worksheet 1	11c	<input type="text"/>

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Part 1: Answer these questions for this quarter. *(continued)*

11d	Total nonrefundable credits. Add lines 11a, 11b, and 11c	11d	<input type="text"/>	•
12	Total taxes after adjustments and nonrefundable credits. Subtract line 11d from line 10	12	<input type="text"/>	•
13a	Total deposits for this quarter, including overpayment applied from a prior quarter and overpayments applied from Form 941-X, 941-X (PR), 944-X, or 944-X (SP) filed in the current quarter	13a	<input type="text"/>	•
13b	Deferred amount of the employer share of social security tax	13b	<input type="text"/>	•
13c	Refundable portion of credit for qualified sick and family leave wages from Worksheet 1	13c	<input type="text"/>	•
13d	Refundable portion of employee retention credit from Worksheet 1	13d	<input type="text"/>	•
13e	Total deposits, deferrals, and refundable credits. Add lines 13a, 13b, 13c, and 13d	13e	<input type="text"/>	•
13f	Total advances received from filing Form(s) 7200 for the quarter	13f	<input type="text"/>	•
13g	Total deposits, deferrals, and refundable credits less advances. Subtract line 13f from line 13e	13g	<input type="text"/>	•
14	Balance due. If line 12 is more than line 13g, enter the difference and see instructions	14	<input type="text"/>	•
15	Overpayment. If line 13g is more than line 12, enter the difference <input type="text"/> •	Check one: <input type="checkbox"/> Apply to next return. <input type="checkbox"/> Send a refund.		

Name (not your trade name)	Employer identification number (EIN)
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Part 3: Tell us about your business. If a question does NOT apply to your business, leave it blank.

17	If your business has closed or you stopped paying wages	<input type="checkbox"/>	Check here, and enter the final date you paid wages <input type="text"/> / <input type="text"/> / <input type="text"/> ; also attach a statement to your return. See instructions.
18	If you're a seasonal employer and you don't have to file a return for every quarter of the year	<input type="checkbox"/>	Check here.
19	Qualified health plan expenses allocable to qualified sick leave wages	19	<input type="text"/> .
20	Qualified health plan expenses allocable to qualified family leave wages	20	<input type="text"/> .
21	Qualified wages for the employee retention credit	21	<input type="text"/> .
22	Qualified health plan expenses allocable to wages reported on line 21	22	<input type="text"/> .
23	Credit from Form 5884-C, line 11, for this quarter	23	<input type="text"/> .
24	Qualified wages paid March 13 through March 31, 2020, for the employee retention credit (use this line only for the second quarter filing of Form 941)	24	<input type="text"/> .
25	Qualified health plan expenses allocable to wages reported on line 24 (use this line only for the second quarter filing of Form 941)	25	<input type="text"/> .

Worksheet 1. Credit for Qualified Sick and Family Leave Wages and the Employee Retention Credit

Keep for Your Records 

Determine how you will complete this worksheet

If you paid both qualified sick and family leave wages and qualified wages for purposes of the employee retention credit this quarter, complete Step 1, Step 2, and Step 3. If you paid qualified sick and family leave wages this quarter but you didn't pay any qualified wages for purposes of the employee retention credit this quarter, complete Step 1 and Step 2. If you paid qualified wages for purposes of the employee retention credit this quarter but you didn't pay any qualified sick and family leave wages this quarter, complete Step 1 and Step 3.

Step 1. Determine the employer share of social security tax this quarter after it is reduced by any credit claimed on Form 8974 and any credit to be claimed on Form 5884-C

1a	Enter the amount of social security tax from Form 941, Part 1, line 5a, column 2	1a	_____
1b	Enter the amount of social security tax from Form 941, Part 1, line 5b, column 2	1b	_____
1c	Add lines 1a and 1b	1c	_____
1d	Multiply line 1c by 50% (0.50)	1d	_____
1e	If you're a third-party payer of sick pay that isn't an agent and you're claiming credits for amounts paid to your employees, enter the employer share of social security tax included on Form 941, Part 1, line 8 (enter as a positive number)	1e	_____
1f	Subtract line 1e from line 1d	1f	_____
1g	If you received a Section 3121(g) Notice and Demand during the quarter, enter the amount of the employer share of social security tax from the notice	1g	_____
1h	Employer share of social security tax. Add lines 1f and 1g	1h	_____
1i	Enter the amount from Form 941, Part 1, line 11a (credit from Form 8974)	1i	_____
1j	Enter the amount to be claimed on Form 5884-C, line 11, for this quarter	1j	_____
1k	Total nonrefundable credits already used against the employer share of social security tax. Add lines 1i and 1j	1k	_____
1l	Employer share of social security tax remaining. Subtract line 1k from line 1h	1l	_____

Step 2. Figure the sick and family leave credit

Step 2. Figure the sick and family leave credit

2a	Qualified sick leave wages reported on Form 941, Part 1, line 5a(i), column 1	2a	_____
2a(i)	Qualified sick leave wages included on Form 941, Part 1, line 5c, but not included on Form 941, Part 1, line 5a(i), column 1, because the wages reported on that line were limited by the social security wage base	2a(i)	_____
2a(ii)	Total qualified sick leave wages. Add lines 2a and 2a(i)	2a(ii)	_____
2b	Qualified health plan expenses allocable to qualified sick leave wages (Form 941, Part 3, line 19)	2b	_____
2c	Employer share of Medicare tax on qualified sick leave wages. Multiply line 2a(ii) by 1.45% (0.0145)	2c	_____
2d	Credit for qualified sick leave wages. Add lines 2a(ii), 2b, and 2c		2d _____
2e	Qualified family leave wages reported on Form 941, Part 1, line 5a(ii), column 1	2e	_____
2e(i)	Qualified family leave wages included on Form 941, Part 1, line 5c, but not included on Form 941, Part 1, line 5a(ii), column 1, because the wages reported on that line were limited by the social security wage base	2e(i)	_____
2e(ii)	Total qualified family leave wages. Add lines 2e and 2e(i)	2e(ii)	_____
2f	Qualified health plan expenses allocable to qualified family leave wages (Form 941, Part 3, line 20)	2f	_____
2g	Employer share of Medicare tax on qualified family leave wages. Multiply line 2e(ii) by 1.45% (0.0145)	2g	_____
2h	Credit for qualified family leave wages. Add lines 2e(ii), 2f, and 2g		2h _____
2i	Credit for qualified sick and family leave wages. Add lines 2d and 2h		2i _____
2j	Nonrefundable portion of credit for qualified sick and family leave wages. Enter the smaller of line 1f or line 2i. Enter this amount on Form 941, Part 1, line 11b		2j _____
2k	Refundable portion of credit for qualified sick and family leave wages. Subtract line 2j from line 2i and enter this amount on Form 941, Part 1, line 13c		2k _____

Step 3. Figure the employee retention credit			
3a	Qualified wages (excluding qualified health plan expenses) for the employee retention credit (Form 941, Part 3, line 21)	3a	_____
3b	Qualified health plan expenses allocable to qualified wages for the employee retention credit (Form 941, Part 3, line 22)	3b	_____
3c	Qualified wages (excluding qualified health plan expenses) paid March 13, 2020, through March 31, 2020, for the employee retention credit (Form 941, Part 3, line 24). Enter an amount here only for the second quarter Form 941	3c	_____
3d	Qualified health plan expenses allocable to qualified wages paid March 13, 2020, through March 31, 2020, for the employee retention credit (Form 941, Part 3, line 25). Enter an amount here only for the second quarter Form 941	3d	_____
3e	Add lines 3a, 3b, 3c, and 3d	3e	_____
3f	Retention credit. Multiply line 3e by 50% (0.50)	3f	_____
3g	Enter the amount of the employer share of social security tax from Step 1, line 1f	3g	_____
3h	Enter the amount of the nonrefundable portion of the credit for qualified sick and family leave wages from Step 2, line 2j	3h	_____
3i	Subtract line 3h from line 3g	3i	_____
3j	Nonrefundable portion of employee retention credit. Enter the smaller of line 3f or line 3i. Enter this amount on Form 941, Part 1, line 11c	3j	_____
3k	Refundable portion of employee retention credit. Subtract line 3j from line 3f and enter this amount on Form 941, Part 1, line 13d	3k	_____

Caution:
Only complete lines 3c and 3d for your second quarter 2020 Form 941.

Form 7200 (March 2020) Department of the Treasury Internal Revenue Service	Advance Payment of Employer Credits Due to COVID-19 ► Go to www.irs.gov/Form7200 for instructions and the latest information.	OMB No. 1545-0029
Name (not your trade name)		Employer identification number (EIN)
Trade name (if any)		Applicable calendar quarter (check one)
Number, street, and apt. or suite no. If a P.O. box, see instructions.		(2) <input type="checkbox"/> April, May, June
		(3) <input type="checkbox"/> July, August, September
		(4) <input type="checkbox"/> October, November, December
City or town, state, and ZIP code. If a foreign address, also complete spaces below. (See instructions.)		
Foreign country name	Foreign province/county	Foreign postal code
Does a third-party payer file your employment tax return? (See instructions.) If "Yes," enter its name.		Third-party payer's EIN (if applicable)

Tip: File Form 7200 if you can't reduce your employment tax deposits to fully account for these credits that you expect to claim on your employment tax return for the applicable quarter. Don't reduce your employment tax deposits and request advanced credits for the same expected credits. You will need to reconcile your advanced credits and reduced deposits on your employment tax return. You can't request an advance payment of the credit for sick and family leave for self-employed individuals.

Part I Tell Us About Your Employment Tax Return

- A** Check the box to indicate which employment tax return form you file (or will file for 2020):
 (1) 941, 941-PR, or 941-SS (2) 943 or 943-PR (3) 944 or 944(SP) (4) CT-1
- B** Is this a new business started on or after January 1, 2020? ► Yes No
 If "Yes," skip line C unless you've already filed Form 941, Form 941-PR, or Form 941-SS for at least one quarter of 2020.
- C** Amount reported on line 2 of your most recently filed Form 941 (or wages reported on Schedule R (Form 941), column (c), by your third-party payer (see instructions)). If you file a different employment tax return, see instructions ► _____
- D** Enter the total number of employees you have. See instructions ► _____

Part II Enter Your Credits and Advance Requested

1 Total employee retention credit for the quarter. See instructions	1	
2 Total qualified sick leave wages eligible for the credit and paid this quarter. See instructions	2	
3 Total qualified family leave wages eligible for the credit and paid this quarter. See instructions	3	
4 Add lines 1, 2, and 3	4	
5 Total amount by which you have already reduced your federal employment tax deposits for these credits for this quarter	5	
6 Total advanced credits requested on previous filings of this form for this quarter	6	
7 Add lines 5 and 6	7	
8 Advance requested. Subtract line 7 from line 4. If zero or less, don't file this form	8	

W-2 REPORTING

Report qualified sick leave wages and qualified family leave wages on either:

- W-2, box 14 OR
- On a separate statement
- Must also include on W-2 boxes 1, 3 (up to the social security wage base) and 5

Self-employed claim qualified equivalent

- Report on Form 7202 (only Draft available as of 9/2/2020)
- Attach to Form 1040

**Credits for Sick Leave and Family Leave
for Certain Self-Employed Individuals**

▶ Attach to Form 1040 or 1040-SR.

▶ Go to www.irs.gov/Form7202 for instructions and the latest information.

Name of person with self-employment income (as shown on Form 1040 or 1040-SR)

Social security number of person with
self-employment income

Part I Credit for Sick Leave for Certain Self-Employed Individuals

1	Number of days you were unable to perform services as a self-employed individual because of certain coronavirus-related care you required. See instructions	1
2	Number of days you were unable to perform services as a self-employed individual because of certain coronavirus-related care you provided to another. (Do not include days you included in line 1.) See instructions	2
3	If you are filing a fiscal year return, see instructions; otherwise enter 10	3
4	Enter the smaller of line 1 or line 3	4
5	Subtract line 4 from line 3	5
6	Enter the smaller of line 2 or line 5	6
7	Net earnings from self-employment (see instructions)	7
8	Divide line 7 by 260 (round to nearest whole number)	8
9	Enter the smaller of line 8 or \$511	9
10	Multiply line 4 by line 9	10
11	Multiply line 8 by 67% (0.67)	11
12	Enter the smaller of line 11 or \$200	12
13	Multiply line 6 by line 12	13
14	Add lines 10 and 13	14
15	Amount of emergency paid sick leave subject to the \$511 per day limit you received from an employer (see instructions)	15
16	Amount of emergency paid sick leave subject to the \$200 per day limit you received from an employer (see instructions)	16
If line 15 and line 16 are both zero, skip to line 24 and enter the amount from line 14.		
17	Add line 13 and line 16	17
18	Enter the smaller of line 17 or \$2,000	18
19	Subtract line 18 from line 17	19
20	Add lines 10, 15, and 18	20
21	Enter the smaller of line 20 or \$5,110	21
22	Subtract line 21 from line 20	22
23	Add line 19 and line 22	23
24	Subtract line 23 from line 14. If zero or less, enter -0-. Enter here and include on Schedule 3 (Form 1040), line 12b	24

Part II Credit for Family Leave for Certain Self-Employed Individuals

25	Number of days you were unable to perform services as a self-employed individual because of certain coronavirus-related care you provided to a son or daughter under the age of 18. (Do not enter more than 50 days.) See instructions	25
26	Net earnings from self-employment (see instructions)	26
27	Divide line 26 by 260 (round to nearest whole number)	27
28	Multiply line 27 by 67% (0.67)	28
29	Enter the smaller of line 28 or \$200	29
30	Multiply line 25 by line 29	30
31	Amount of emergency family leave wages you received from an employer (see instructions)	31
If line 31 is zero, skip to line 35 and enter the amount from line 30.		
32	Add line 30 and line 31	32
33	Enter the smaller of line 32 or \$10,000	33
34	Subtract line 33 from line 32	34
35	Subtract line 34 from line 30. If zero or less, enter -0-. Enter here and include on Schedule 3 (Form 1040), line 12b	35

DOL EXEMPTION

- Employers with fewer than 50 employees are exempt from providing:
 - Paid sick leave due to child's school or daycare unavailability or closure
 - Expanded family and medical leave due to child's school or daycare unavailability or closure
- If the provision would result in:
 - Business expenses exceeding revenue
 - Substantial risk to the financial or operational health of business because of specialized skills, knowledge or responsibilities
 - Insufficient workers available to replace employee needing leave
- Exemption only applies to Category 5 - lack of childcare

LEAVE-BASED DONATION PROGRAMS

- Employee forgoes sick/vacation/personal leave;
- Employer uses those funds to make a charitable donation to qualified organization
 - Wages not included in compensation or gross income
 - Do not include wages forgone on W-2
 - Employee forgoing wages not allowed a charitable deduction

EMPLOYEE RETENTION CREDIT

- Eligible employer can claim credit against federal employment taxes
- 50% of qualified wages for each employee in each calendar quarter
- No more than \$10,000 per employee
- Applies to wages paid March 12, 2020 and before January 1, 2021
- Eligible Employer
 - Trade or business in 2020
 - Any calendar quarter partial or complete suspension of business by governmental authority because of COVID-19
 - Reduced Gross Receipts Test

EMPLOYEE RETENTION CREDIT

- Qualified Wages
 - Example 16.2 - More than 100 Employees
 - Example 16.3 - Less than 100 Employees

- Credit not available to businesses that:
 - Received a business interruption loan
 - Hires employer's children
 - Claims the work opportunity credit

EMPLOYEE RETENTION CREDIT

- Claiming the Credit
 - Report total qualified wages on Form 941 (or equivalent form)
 - Use federal employment taxes to fund the credit
 - Use Form 7200 to request advance not funded by federal employment tax deposits
- IRS will not honor Form 7200 for a quarter after Form 941 has already been processed for that quarter
- Erroneous refunds will be treated as underpayments subject to penalties and interest

New COVID-19 Employer Tax Credits

The Employee Retention Credit

The Employee Retention Credit is designed to encourage employers to keep employees on their payroll. The refundable tax credit is 50% of up to \$10,000 in qualified wages paid to an employee by an eligible employer experiencing economic hardship related to COVID-19. This credit is for wages paid from 3/13/2020 through 12/31/2020.

The credit is generally available to all employers regardless of size, including tax-exempt organizations.

Federal, state and local governments and their agencies or instrumentalities are not eligible.

2 EXCEPTIONS

Businesses that receive a Small Business Interruption Loan under the Paycheck Protection Program are not eligible.

Eligible employers must fall into one of two categories:

1 The employer's business is fully or partially suspended by government order due to COVID-19 during the calendar quarter.

2 The employer has a significant decline in gross receipts. This begins with the first quarter in 2020 when an employer's gross receipts are below 50% of the same quarter in 2019.

Qualified wages paid by an eligible employer from 03/13/2020 through 12/31/2020 include related qualified health plan expenses and vary based on the average number of a business' employees in 2019.

100 or fewer employees
If the employer averaged 100 or fewer full-time employees in 2019, the credit is based on qualified wages paid to all employees, whether they worked or not. Even if the employees worked full time and were paid for full-time work, the employer still receives the credit.

More than 100 employees
If the employer averaged more than 100 full-time employees in 2019, then the credit is allowed only for qualified wages paid to employees for time they're not providing services during the calendar quarter.

An employer cannot use the same wages for the Employee Retention Credit and the credits for paid sick and family leave.

CARES ACT – DEFERRAL OF PAYROLL TAXES, RRTA TAX AND SECA

- Temporary deferment of payment of the employer's portion of social security or RRTA payroll taxes (6.2%) which apply through December 31, 2020
- Employer defers by reducing the required deposits or payments for the calendar quarter, typically 941 filers.
 - Deferral period from March 27 through December 31, 2020
 - Applicable to Annual filers (943, 944, and Form CT-1)
 - Applicable to Self-Employed
 - Pay in two equal installments: Dec. 31, 2021 and Dec. 31, 2022.

CARES ACT – DEFERRAL OF PAYROLL TAXES

Example 16.4 – Partial
payment

Example 16.5 – Overpayment

Deferring payroll tax obligations – Notice 2020-65

- Defer employee's portion of FICA
-
- No requirement that employers participate
 - No ability for employees to opt in or out, except at the mercy of employer
 - Amounts deferred must be repaid from January 1 through April 30 or next year
 - Employers and employees remain on the hook for the payments (employers may make arrangements to collect if they can't withhold)
 - Limited to \$4,000 biweekly
 - No guarantee of forgiveness
 - Deferral not subject to penalties and interest

CARES ACT – MODIFICATIONS FOR NET OPERATING LOSSES

- Removal of the taxable income limitation for all NOLs arising in tax years 2018, 2019 and 2020 for all businesses, including farming. The NOL can offset 100% of taxable income.
- Modified the carry back from two years to five years.
- Taxpayers can elect out of the 5-year carryback and carry the loss forward.
- Election is irrevocable

ADDRESSING THE CHANGES TO NOLS

- Requesting the Carryback
 - Date became effective July 15, 2020
 - Corporations use IRS Form 1139
 - Individuals, estates and trusts use IRS Form 1045
 - After July 15, 2020, an amended return is used.
- Waiving the Carryback
 - Attach an election statement for the first taxable year ending after March 27, 2020 and separate statements for 2018 and 2019.

CREDIT FOR PRIOR-YEAR MINIMUM TAX LIABILITY OF CORPORATIONS

- Tax year beginning after 2017 and before 2020 a corporation's minimum tax credit is allowable and refundable
- Amount equal to 50% (100% for a tax year beginning in 2019) of the excess (if any) of the minimum tax credit for the tax year over the amount of the credit allowable for the year against regular tax liability.
- The full amount of the minimum tax credit is allowed in tax years beginning before 2020.
- Corporation may elect instead to treat its minimum tax credit as fully refundable for its first tax year beginning in 2018.
- File application prior to December 31, 2020.

CARES ACT - BUSINESS INTEREST LIMITATION

- Business interest is increased from 30% percent to 50% of taxable income for tax years 2019 and 2020.
- Limitation generally does not apply to certain small businesses with gross receipts less than \$26,000,000.
- Special rules for partnerships and partners for tax years beginning in 2019
 - First 50% of partner's allocable share of excess business interest not limited
 - Remaining 50% subject to limitation
 - Partner may elect out of EBIE rule

CARES ACT – QUALIFIED IMPROVEMENT PROPERTY



15-year property under MACRS and 20-year property under ADS, retroactive to December 31, 2017.



Only applies if the qualified improvement property is made by the taxpayer

HEALTH PLANS - HSAs

- Qualified medical expenses now include over-the-counter medicines, drugs, and menstrual care products, and reimbursement for those expenses.
- Annual limit with self-only coverage under a high-deductible health plan (HDHP) is \$3,600.

PPP LOAN EXPENSES

- Notice 2020-32
 - No deduction is allowed for an expense that is otherwise deductible if:
 - the payment of the expense results in forgiveness of a loan made under the PPP
 - the income associated with the forgiveness is excluded from gross income pursuant to the CARES Act.



A BORROWER MAY USE THIS FORM ONLY IF THE BORROWER RECEIVED A PPP LOAN OF \$50,000 OR LESS.
A Borrower that, together with its affiliates, received PPP loans totaling \$2 million or greater cannot use this form.

Business Legal Name ("Borrower")		DBA or Tradename, if applicable	
Business Address		Business TIN (EIN, SSN)	Business Phone
		() -	
		Primary Contact	E-mail Address

SBA PPP Loan Number: _____ Lender PPP Loan Number: _____
 PPP Loan Amount: _____ PPP Loan Disbursement Date: _____
 Employees at Time of Loan Application: _____ Employees at Time of Forgiveness Application: _____
 EIDL Advance Amount: _____ EIDL Application Number: _____
 Forgiveness Amount: _____

By Signing Below, You Make the Following Representations and Certifications on Behalf of the Borrower:

The Authorized Representative of the Borrower certifies to all of the below by **initialing** next to each one.

The dollar amount for which forgiveness is requested does not exceed the principal amount of the PPP loan and:

- was used to pay costs that are eligible for forgiveness (payroll costs to retain employees; business mortgage interest payments; business rent or lease payments; or business utility payments);
- includes payroll costs equal to at least 60% of the forgiveness amount;
- if a 24-week Covered Period applies, does not exceed 2.5 months' worth of 2019 compensation for any owner-employee or self-employed individual/general partner, capped at \$20,833 per individual; and
- if the Borrower has elected an 8-week Covered Period, does not exceed 8 weeks' worth of 2019 compensation for any owner-employee or self-employed individual/general partner, capped at \$15,385 per individual.

I understand that if the funds were knowingly used for unauthorized purposes, the federal government may pursue recovery of loan amounts and/or civil or criminal fraud charges.

The Borrower has accurately verified the payments for the eligible payroll and nonpayroll costs for which the Borrower is requesting forgiveness, and has accurately calculated the forgiveness amount requested.

I have submitted to the Lender the required documentation verifying payroll costs, the existence of obligations and service (as applicable) prior to February 15, 2020, and eligible business mortgage interest payments, business rent or lease payments, and business utility payments.

The information provided in this application and the information provided in all supporting documents and forms is true and correct in all material respects. I understand that knowingly making a false statement to obtain forgiveness of an SBA-guaranteed loan is punishable under the law, including 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a Federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.

The tax documents I have submitted to the Lender are consistent with those the Borrower has submitted/will submit to the IRS and/or state tax or workforce agency. I also understand, acknowledge, and agree that the Lender can share the tax information with SBA's authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of ensuring compliance with PPP requirements and all SBA reviews.

I understand, acknowledge, and agree that SBA may request additional information for the purposes of evaluating the Borrower's eligibility for the PPP loan and for loan forgiveness, and that the Borrower's failure to provide information requested by SBA may result in a determination that the Borrower was ineligible for the PPP loan or a denial of the Borrower's loan forgiveness application.

The Borrower's eligibility for loan forgiveness will be evaluated in accordance with the PPP regulations and guidance issued by SBA through the date of this application. SBA may direct a lender to disapprove the Borrower's loan forgiveness application if SBA determines that the Borrower was ineligible for the PPP loan.

Signature of Authorized Representative of Borrower

Date

Print Name

Title

For use for
loans
\$ 50,000 or
Less



**Paycheck Protection Program
PPP Loan Forgiveness Application Form 3508S**

PPP Borrower Demographic Information Form (Optional)

Instructions

1. **Purpose.** Veteran/gender/race/ethnicity data is collected for program reporting purposes only.
2. **Description.** This form requests information about each of the Borrower's Principals. Add additional sheets if necessary.
3. **Definition of Principal.** The term "Principal" means:
 - For a self-employed individual, independent contractor, or a sole proprietor, the self-employed individual, independent contractor, or sole proprietor.
 - For a partnership, all general partners and all limited partners owning 20% or more of the equity of the Borrower, or any partner that is involved in the management of the Borrower's business.
 - For a corporation, all owners of 20% or more of the Borrower, and each officer and director.
 - For a limited liability company, all members owning 20% or more of the Borrower, and each officer and director.
 - Any individual hired by the Borrower to manage the day-to-day operations of the Borrower ("key employee").
 - Any trustor (if the Borrower is owned by a trust).
 - For a nonprofit organization, the officers and directors of the Borrower.
4. **Principal Name.** Insert the full name of the Principal.
5. **Position.** Identify the Principal's position; for example, self-employed individual; independent contractor; sole proprietor; general partner; owner; officer; director; member; or key employee.

Principal Name		Position
Veteran	1=Non-Veteran; 2=Veteran; 3=Service-Disabled Veteran; 4=Spouse of Veteran; X=Not Disclosed	
Gender	M=Male; F=Female; X=Not Disclosed	
Race (more than 1 may be selected)	1=American Indian or Alaska Native; 2=Asian; 3=Black or African-American; 4=Native Hawaiian or Pacific Islander; 5=White; X=Not Disclosed	
Ethnicity	H=Hispanic or Latino; N=Not Hispanic or Latino; X=Not Disclosed	

Disclosure is voluntary and will have no bearing on the loan forgiveness decision

Paperwork Reduction Act – You are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. The estimated time for completing this application, including gathering data needed, is 15 minutes. Comments about this time or the information requested should be sent to Small Business Administration, Director, Records Management Division, 409 3rd St., SW, Washington DC 20416, and/or SBA Desk Officer, Office of Management and Budget, New Executive Office Building, Washington DC 20503. **PLEASE DO NOT SEND FORMS TO THESE ADDRESSES.**

Question:

- PPP loan \$ 50,000 & EIDL \$ 10,000, so you don't take the \$ 50,000 in expenses & you don't put the loan in income, but you pay a loan of \$ 10,000.
- The EIDL is picked up in income & expense is taken.
- Is that correct?

Question:

- EIDL is \$ 25,000 PPP is \$ 9,000 – how does that work
- Are EIDL grants the same as SBA loans?
 - If yes are the SBA loans going to be treated the same as EIDL loans?

SBA Q & A

#7 The CARES Act excludes from the definition of payroll costs any employee compensation in excess of an annual salary of \$ 100,000. Does that exclusion apply to all employee benefits of monetary value?

No. The exclusion of compensation in excess of \$ 100,000 annually applies only to cash compensation, not to non-cash benefits, including:

- employer contributions to defined-benefit or defined-contribution retirement plans;
- payment for the provisions of employee benefits consisting of group health care coverage, including insurance premiums; and
- Payment of state and local taxes assessed on compensation of employees.

8 Do PPP loans cover paid sick leave?

Yes, PPP loans covers payroll costs, including costs for employee vacation, parental, family, medical and sick leave. However, the CARES Act excludes qualified sick and family leave wages for which a credit is allowed under §7001 and 7003 of the Families First Coronavirus Response Act (Public Law 116-127)

9 My small business is a seasonal business whose activity increases from April to June. Considering activity from that period would be a more accurate reflection of my business' operation. However, my small business was not fully ramped up on February 15, 2020. Am I still Eligible?

In evaluating a borrower's eligibility, a lender may consider whether a seasonal borrower was in operation on February 15, 2020 or for an 8-week period between February 15, 2019 and June 30, 2019

13 Are lenders permitted to use their own online portals and an electronic form that they create to collect the same information and certifications as in the Borrower Application Form, in order to complete implementation of their online portals?

Yes. Lenders may use their own online systems and a form they establish that asks for the same information (using the same language) as the Borrower Application Form. Lenders are still required to send the data to SBA using SBA's interface.

20 The amount of forgiveness of a PPP loan depends on the borrower's payroll costs over an 8-week or 24-week period; when does that 8-week or 24-week period begin?

The 8-week or 24-week period starts on the date your lender makes a disbursement of the PPP loan to the borrower. The lender must disburse the loan no later than 10 calendar days from the date of loan approval.

The Paycheck Protection Program Flexibility Act of 2020, which became law on June 5, 2020, extended the covered period for loan forgiveness from 8 weeks after the date of the loan disbursement to 24 weeks after the date of loan disbursement, providing substantially greater flexibility for borrowers to qualify for loan forgiveness. The 24-week period applies to all borrowers, but borrowers that received an SBA loan number before June 5, 2020, have the option to use an 8-week period

32 Does the cost of a housing stipend or allowance provided to an employee as part of compensation count toward payroll costs?

Yes, Payroll costs include all cash compensation paid to employees, subject to the \$ 100,000 annual compensation per employee limitation.

45 Is an employer that repays its PPP loan by the safe harbor deadline (May 18, 2020) eligible for the Employee Retention Credit?

Yes, An employer that applied for a PPP loan, received payment, and repays the loan by the safe harbor deadline (May 18, 2020) will be treated as though the employer had not received a covered loan under the PPP for purposes of the Employee Retention Credit. Therefore, the employer will be eligible for the credit if the employer is otherwise an eligible employer for purposes of the credit.

1102(a)(2)(36)(P)(ii)

"An agent that assists an eligible recipient to prepare an application for a covered loan may not collect a fee in excess of the limits established by the Administrator."

(i) -- the administrator set the fee for "a lender authorized to make a covered loan...",

POLLING QUESTION 2

IRS Notice 2020-32 is important because?

- a. It defines whether a PPP loan is forgiven
- b. It defines expenses eligible for a PPP loan
- c. It explains that no deduction is allowed for expenses paid out of PPP loan proceeds if the loan is forgiven and income is otherwise excluded under the CARES Act
- d. It really isn't that important

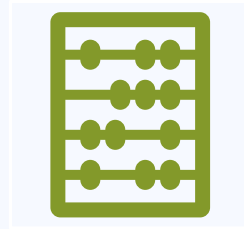
RELIEF FUND PAYMENTS – IRS FAQ_s

- Payments are included in the gross income
- Payments to a federally recognized Indian tribe member's business is excluded from gross income under the general welfare exclusion.
- Loan proceeds to support businesses are excluded from gross income
- Forgiven portion is includable in gross income/taxable unless an exclusion in I.R.C. § 108 or other federal law applies.
- If an exclusion applies, an equivalent amount of any deductions, basis, losses, or other tax attributes may have to be reduced.

CARES ACT – ECONOMIC IMPACT PAYMENTS



EIPs are “*credits against 2020 taxable income*”



AGI Phase-outs: 5% reduction over the respective filing threshold

Single \$75,000

MFJ \$150,000

HoH \$112,500



100% Phase out

Single filer AGI > \$99,000

Joint filer w/ no children
AGI > \$198,000

Head of household with
one child, AGI > \$146,500.

ECONOMIC IMPACT PAYMENTS


- Any Individual except:
 - a nonresident alien
 - an individual for whom another taxpayer could claim a dependency deduction
 - and an estate or trust
- IRS can determine the EIP from the 2018 return if no 2019 return filed
- If no 2018 return, the IRS can use 2019 Form SSA-1099, Social Security Benefit Statement or equivalent
- No EIP is allowed if no valid identification number

RECONCILING THE EIP ON THE 2020 TAX RETURN

EIP payment amount less the advance refund amount is positive, difference is a refundable credit



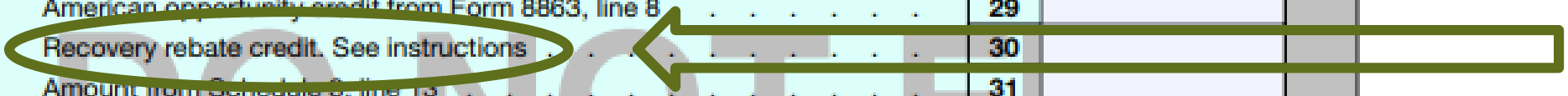
EIP payment amount less advance is negative, tax liability is not increased by negative amount



EIP advance never received? Claim the EIP 2020 income tax return

16	Tax (see instructions). Check if any from Form(s): 1 <input type="checkbox"/> 8814 2 <input type="checkbox"/> 4972 3 <input type="checkbox"/> _____	16	
17	Amount from Schedule 2, line 3	17	
18	Add lines 16 and 17	18	
19	Child tax credit or credit for other dependents	19	
20	Amount from Schedule 3, line 7	20	
21	Add lines 19 and 20	21	
22	Subtract line 21 from line 18. If zero or less, enter -0-	22	
23	Other taxes, including self-employment tax, from Schedule 2, line 10	23	
24	Add lines 22 and 23. This is your total tax	24	
25	Federal income tax withheld from:		
a	Form(s) W-2	25a	
b	Form(s) 1099	25b	
c	Other forms (see instructions)	25c	
d	Add lines 25a through 25c	25d	
26	2020 estimated tax payments and amount applied from 2019 return	26	
27	Earned income credit (EIC)	27	
28	Additional child tax credit. Attach Schedule 8812	28	
29	American opportunity credit from Form 8863, line 8	29	
30	Recovery rebate credit. See instructions	30	
31	Amount from Schedule 3, line 13	31	
32	Add lines 27 through 31. These are your total other payments and refundable credits	32	
33	Add lines 25d, 26, and 32. These are your total payments	33	

- If you have a qualifying child, attach Sch. EIC.
- If you have nontaxable combat pay, see instructions.



POLLING QUESTION 3

How many taxpayer do you think will remember to bring their Notice 1444 with the amount of stimulus payment they received?

- a. 1-25
- b. 25-50
- c. None
- d. What Notice 1444?

CARES ACT – CHARITABLE CONTRIBUTIONS

Above the line deduction of \$300 if not itemizing



Non-cash property not qualified



Temporary suspension of the 60% AGI limit for cash charitable contributions

- In 2020 the limit is 100% of AGI.
- 

Corporation limit increased from 10% to 25% of taxable income.

CARES ACT – RETIREMENT ISSUES

Coronavirus-Related Distributions

- Exception to early distribution penalties
- Penalty-free distributions up to \$100,000
- Distribution included ratably over three years
- Treated as a direct rollover if recontributed to an eligible plan within 3 years
- Individual may ratably include the income over 3 years, or elect out and include the entire amount in the year of distribution.
- Recontribution must occur within 3 years from the day after receiving the funds.

IRS FAQ_s - RELIEF FOR ESTATE AND GIFT TAX

See IRS FAQs on COVID-19 Relief for Estate and Gift Tax

www.irs.gov/businesses/smallbusinesses-self-employed/covid-19-relief-forestate-and-gift

FAQs list various clarifications regarding estate and gift tax relief

Polling Question 4

The stimulus payment received by a taxpayer is an offset to tax liability not includable in gross income?

True or False

IRS NOTICE 2020-248

- Issued November 02, 2020
- Penalty Relief
- Installment Agreement
- OIC

ELECTRONIC SUBMISSIONS

- Rev Proc 2020-29 temporarily allows the electronic submission of:
 - requests for letter rulings
 - closing agreements
 - determination letters
 - certain information letters
- Also allows for:
 - determination letters issued by the IRS Large Business and International Division
 - electronic signatures

IRS EMAILED DOCUMENTS

IRS can accept images and digital signatures through 12/31/2020 including:

- Extensions of statute of limitations on assessment or collection
- Waivers of statutory notices of deficiency and consents to assessment
- Agreements to specific tax matters or tax liabilities (closing agreements)
- Any other statement or form needing the signature of a taxpayer or representative traditionally collected by IRS personnel outside of standard filing procedures

IRS EMAILED DOCUMENTS CONTINUED

- IRS Memorandum for all Services and Enforcement Employees, Control No. NHQ-01-0620- 0002 (June 12, 2020)
 - provides guidance to IRS employees on instructing taxpayers in the use and transmission of emailed documents
- Memorandum for Taxpayer Advocate Service Employees, Control No. TAS-13-0420-0009 (April 13, 2020)
 - contains temporary allowance for receipt of various documents via email

IRS NOTICE 2020-75

- Proposed Regs.
- Specified Income Tax Payment – on or after November 9, 2020
- SALT
- Entity level deduction
- S Corporations and Partnerships

Questions?
