



## IRS Clarification Re: Employment Tax Deposit Deferral

Under the Cares Act, Employers are provided the ability to defer the deposit and payment of the employer's share of social security tax payments that were otherwise required to be made from March 27, 2020 through December 31, 2020. Fifty percent of the taxes are due by December 31, 2021 and the remaining fifty percent are due by December 31, 2022. One part of the relief that was still a bit murky was the statement that this tax deferral option was not available to employers who "had indebtedness forgiven" under the PPP. Does this mean that an employer who is applying for a PPP Loan could not immediately take advantage of this tax deferral? The IRS finally provided much needed clarification in their FAQs issued last Friday.

<https://www.irs.gov/newsroom/deferral-of-employment-tax-deposits-and-payments-through-december-31-2020>

### **Here are the highlights:**

**Taxes Eligible for Deferral:** Employers may defer the deposit of the Employer's Portion of Social Security taxes and certain railroad retirement taxes.

**What if you are applying for or have applied for a PPP Loan?** The IRS clarified that you may defer these payroll taxes until you have received a decision from the lender that the loan was forgiven.

**Which Employers are eligible to defer?** All employers are eligible to defer. For employers that receive a PPP Loan, they may not defer the deposit and payment of the employer's share of social security tax due on or after the date that the PPP loan is forgiven.

**For Employers who receive a PPP Loan, how will the tax deferral work if their loan is forgiven?** Employers applying for a PPP Loan may begin deferring the employer portion of social security tax payments for payments that were to be made after March 27, 2020. They may continue to defer these payments without penalty until the date the lender issues a decision to forgive the loan. Once the employer receives a decision that the loan is forgiven, the employer can no longer defer deposit and payment of employer's portion of social security tax due after that date. The amount of the deposit and payment of the employer's share of social security tax that was deferred through the date that the loan was forgiven will continue to be deferred and will then be due as follows: 50% of the deferred amount will be due on December 31, 2021 and the remaining 50% will be due on December 31, 2022.

**Important Note: In order to avoid potential penalties and interest, be sure to communicate the outcome of your loan with CTR immediately.**

**Can an employer that is eligible to claim refundable paid leave tax credits or the employee retention credit defer its deposit and payment of the employer's share of social security tax prior to determining the amount of employment tax deposits that it may retain in anticipation of these credits?** Yes. Employers may defer deposit and payment of the employer's share of social security tax prior to determining whether the employer is entitled to the paid leave credits under the FFCRA or the employee retention credit under the Cares Act. For more information regarding the Employer Retention Credits, check out the IRS FAQs for the Employer Retention Credit.

<https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act> Employers who receive a PPP Loan may not also apply for the Employer Retention Credits.