

## Insights

### IRS Provides Guidance on Process for Claiming COVID-19 Related Payroll Tax Credits

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On March 30, 2020, the IRS issued a new tax form, and related instructions, for employers seeking to obtain *advance* payments of three new tax credits established under the Families First Coronavirus Response Act ("Families First Act") and the Coronavirus Aid, Relief and Economic Security Act ("CARES Act"). These credits provide offsets for the costs of tax credits for emergency paid sick leave, expanded family medical leave, and the more recent employee retention payments. Summaries of these credits are available [here](#).

#### **Claiming the Credits Through Payroll Tax Reductions**

Employers can receive an immediate dollar-for-dollar tax offset against payroll taxes for qualifying paid leave for either emergency sick leave or expanded family medical leave provided to qualifying employees, under the Families First Act, between April 1, 2020 and December 31, 2020. Similarly, employers can be immediately reimbursed for the employee retention credit by reducing their required deposits of payroll taxes that were withheld from employees' wages paid after March 12, 2020 and before January 1, 2021.

Eligible employers will be immediately reimbursed for the credit amount by reducing their required deposits of payroll taxes that have been withheld from employees' wages by the amount of the credit. Employers will report their total qualified wages (and any related health insurance costs) for each quarter on their quarterly employment tax returns Form 941, *Employer's QUARTERLY Federal Tax Return*, beginning with the second quarter of 2020. If an employer's employment tax deposits are not sufficient to cover the credit, an employer may receive an advance payment from the IRS. However, until this week it was unclear how employers would go about obtaining these advance payments. The IRS has now provided that guidance in the form of a new tax form and related instructions.

#### **Claiming Advance Credits Anticipated for a Quarter – IRS Form 7200**

The IRS released Form 7200, *Advance Payment of Employer Credits Due to COVID-19*, ("Form 7200") along with related form instructions on Tuesday, March 30, 2020. Employers are instructed to use Form 7200 to request an advance payment of the tax credits for qualified sick and qualified family leave wages and the employee retention credit that are claimed on the employers' applicable payroll tax forms (i.e., the series of Forms 941, 943, 944, or CT-1, as applicable). Form 7200 may be filed for an advance payment of credits anticipated for a quarter at any time



before the end of the month following the quarter in which the employer paid the qualified wages. If necessary, Form 7200 may be filed several times during a quarter. However, Form 7200 should not be filed after an employer has filed Form 941 (or Forms 943, 944, or CT-1, as applicable) for the fourth quarter of 2020. In addition, an employer should not file Form 7200 to request an advance payment for any credit for which the employer already reduced its payroll deposits. The completed Form 7200 should be faxed to (855) 248-0552.

If you have any additional questions regarding this alert please contact **Kendall A. Schnurpel** or your regular Krieg DeVault attorney.

*Notes:*

- *An advance payment of the credits for sick and family leave for self-employed individuals is not available at this time. Accordingly, Form 7200 is not applicable for such individuals.*
- *For purposes of the employee retention credit provided under the CARES Act, eligible wages do not include wages counted for purposes of the paid sick leave and paid family leave payroll tax credits provided under the Families First Act.*
- *If an employer receives a covered paycheck protection program loan under Section 1102 of the CARES Act, the employer is not eligible to claim an employee retention credit.*