Payroll deferrals vs. Reduced payroll deposits

The Coronavirus Aid, Relief, and Economic Security Act provides employers with what seems like a bewildering array of choices: reduce your payroll deposits in anticipation of taking a credit, get an advance on your tax credits, defer your share of Social Security taxes. After surfing around and reading comments from payroll pros, it's abundantly clear that confusion still abounds.

The language of taxes is precise. So it matters if you're deferring your deposits or reducing them.

Let's try to set the record straight.

Deferring deposits

Any employer may defer the deposit of its share of Social Security taxes through the end of the year. And according to IRS FAQs, you may defer these deposits in addition to reducing your tax deposits in anticipation of paid leave or employee retention tax credits.

According to the IRS, you may defer your Social Security deposits prior to determining whether you are entitled to the paid leave or employee retention tax credits and prior to determining the amount of payroll tax deposits you'll reduce in anticipation of those credits, the amount of any advance payments of those credits or the amount of any refunds with respect to those credits.

Sounds like a double-dip, but it's not.

It's a good deal, but remember the bill will come due—half by Dec. 31, 2021, and the other half by Dec. 31, 2022.

Reducing deposits

The only employers eligible to reduce deposits are those on the hook for paid leave or those opting for the employee retention credit. You reduce your deposits in anticipation of the related tax credits.

Who are you? Employers with fewer than 500 employees for paid sick and family leave.

Large and small employers qualify for the retention credit. However, who gets paid creditable wages differs, depending on size: Employers with 100 or more employees can credit payments made to furloughed employees only; employees with fewer than 100 employees can credit payments made to all employees, regardless of whether they were furloughed.

There is an ordering rule to your reduced deposits:

- You first reduce deposits of employees' withheld income and FICA taxes and your portion of FICA taxes to pay for paid sick or family leave
- If there's anything left, you reduce your deposit of your share of Social Security taxes to pay for the retention credit.

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No double-dipping

Taxes are hard, but several tax rules are easy. Among the easiest is that there's no double-dipping—you can't get the benefit of the same thing twice. Double-dipping applies to these CARES Act payroll tax credits:

- You can't reduce your tax deposits and also apply for an advance of the same credit on Form 7200.
- You can't take the paid sick/family leave and retention credits concurrently against the same wages paid to the same employee. But you can take the credits consecutively. So once you exhaust your paid sick/family leave credits with respect to an employee, you can begin to take the employee retention credit (assuming the employee quailfies).
- If you take the paid FMLA leave credit, you're not eligible for corporate tax credit for providing paid FMLA leave to the same employees under IRC § 45S.
- If you take the employee retention credit, you're not eligible for the work opportunity tax credit, a corporate salary deduction, or the corporate tax credit for providing paid FMLA leave to the same employees under IRC § 45S.

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