Your COVID-19 payroll questions, our answers

The IRS and the DOL have been issuing coronavirus-related FAQs at a furious pace. And they *are* helpful. However, it's also apparent that lots of the day-to-day questions Payroll pros have are going unanswered.

Let's see if we can help.

Q: Once we reopen, we're going to need to provide employees with face masks. Can we just give them a $30 stipend and have them buy their own masks?

A: Sure, you can give employees a stipend of any amount, but it will taxable, regardless of whether it's for the purchase of face masks, gloves or other personal protective equipment.

The first rule of payroll administration—cash is always taxable—is beatable by having employees substantiate their costs by turning in receipts. Then you're reimbursing employees for a legitimate business expense.

Q: We're an essential business, so we've been open all along. Because of this designation, employees have been sleeping on site. Do we have to pay them for this time?

A: No. There are certain circumstances where practical considerations make it necessary for employees to remain temporarily on the employer's premises and to eat and sleep there during their stay. The coronavirus may qualify as just such a practical consideration.

In these situations, employees aren't considered to be duty 24/7 if they work a regular schedule after which they are relieved of their duties, except for extra work required by the exigencies of the job. So if they're just hanging out in a break room or a makeshift dorm, you don't have to pay them, even if they're talking about work.

Q: What options are there for tracking employees who are impacted by COVID-19?

A: Most likely, you're talking about setting up a separate earnings code for this. You can be as creative as your software allows. You could, for example, use the same coding you apply to disruptions caused by the weather. Or you could adopt the acronyms from the Families First and CARES Act:

- EPSL for employees on emergency paid sick leave
- EFMLA for employees on emergency paid FMLA leave
- ERTC for employees for whom you will be taking the employee retention tax credit.

Your code should be as descriptive as possible, within the limits of your software. For employees who aren't working but are still being paid, you could try Paid for Hours Not Worked.

The possibilities are limitless, but each new earnings code must be tested before implementation.

Q: We're a bit confused about whether paid sick leave wages are taxable.

A: The wages are taxable and subject to withholding. However, you don't have to deposit the amounts withheld from employees or your matching FICA taxes. You can use the tax deposits to fund the sick leave benefits mandated by the Families First Act.

You will report employees' full wages and taxes withheld on their 2020 W-2.

Q: Are bonuses paid to nonexempt hospital staff who are working through the pandemic discretionary bonuses (which can be excluded from the regular rate calculation) or nondiscretionary bonuses (which must be included)?

A: It depends. A discretionary bonus may be excluded from nonexempts' regular rates if both the fact of payment and the amount of the payment are determined at the employer's sole discretion at or near the end of the period. The key is that employees don't know beforehand that they are in line for bonuses.

Q: How does it work, exactly, if you can defer the deposit of the employer's portion of Social Security taxes and you can reduce the employer's portion of Social Security taxes to pay for sick or family leave?

A: It is a conundrum isn't it, but you are allowed to do both. The IRS says you can first defer the deposit of your share of Social Security taxes. Then you can figure out the reductions in your deposits for purposes of the paid sick/family leave credits.

Remember, for the paid sick/family leave credits, you're also allowed to reduce the deposit of employees' withheld income and FICA taxes and your share of Medicare taxes. If you don't have enough, you can seek an advance by filing Form 7200.