

IRS fact sheet causes confusion around Form 941

We admit we were thrown for a loop after reading the IRS' latest [fact sheets](#) on reporting pandemic-related paid leave to employees on Form W-2c. Sometimes it's best to go right to the horse's mouth, so here, word-for-word (with our highlights and very lightly edited for style), is what the IRS said back then:

*If an eligible employer reports **sick leave or family leave wages paid after Dec. 31, 2021**, for leave taken by an employee after March 31, 2021, and before Oct. 1, 2021, and claims a credit for those sick and family leave wages, the eligible employer must either (1) furnish to the employee a Form W-2c, Corrected Wage and Tax Statement, correcting the employee's 2021 Form W-2, Wage and Tax Statement by reporting the corrected amounts of sick leave and family leave wages (**to include the qualified leave wages paid after Dec. 31, 2021**) in box 14, or (2) provide a corrected statement to the employee correcting the prior reporting.*

This FAQ referenced paid leave taken under the American Rescue Plan, but the IRS came to the same conclusion for paid leave taken in 2020 or 2021.

We are not wrong in interpreting this—if you pay pandemic-related paid leave wages to employees this year for paid leave taken after March 31, 2020, and before Oct. 1, 2021, you need to issue a Form W-2c to correct employees' 2020 or 2021 W-2s, even though you're paying these wages in 2022.

Confused? Welcome to the club.

What Form 941 says

It's always possible to read something and hyper-interpret it—you see the trees, but not the forest. And since no one else in the payroll or tax writing community seemed to be as perturbed as we were about this W-2c reporting requirement, we eventually concluded the IRS was just trying to help out employers that made bookkeeping errors in how they accounted for paid leave over the last couple of years and went on our merry way.

Now we're not so sure. Maybe we were right all along?

The [instructions](#) for Line 3, Federal income tax withheld from wages, tips, and other compensation, for the first-quarter 2022 Form 941 note you should have withheld from qualified sick leave wages paid in 2022 for leave taken after March 31, 2020, and before Oct. 1, 2021, and qualified family leave wages paid in 2022 for leave taken after March 31, 2020, and before Oct. 1, 2021.

So these amounts are taxable to employees in 2022, like other wage payments would be. If you're paying wages and withholding taxes in 2022, conventional payroll procedures would have you report these wages on employees' 2022 W-2s, not Form W-2c, which the fact sheets clearly require.

Or maybe these wages should be reported twice, which really would be a radical departure from conventional

payroll procedures.

What do you do if you followed the fact sheets and issued Forms W-2c to employees? We don't have the answer right now. We will say it's better to withhold than to not withhold. If you haven't withheld on these wages so far, you can make up the withholding ratably over the next couple of paychecks. If employees are slightly overwithheld this year, they'll get a larger tax refund next year. You'll be their hero.

There's no way to resolve this discrepancy now. Because of this ambiguity, we suggest breaking these wages out with a separate pay code. This way, you'll be able to track these wages through the rest of the year.

We'll be watching very carefully to see if the IRS requires W-2, Box 14 reporting of these wages.