

## IRM PROCEDURAL UPDATE

**DATE:** 08/25/2020

**NUMBER:** wi-21-0820-0936

**SUBJECT:** First Quarter 2020 Form 941 - Employee Retention Credits, Deferred Payments, and Notice 1447

**AFFECTED IRM(s)/SUBSECTION(s):** 21.7.2

**IRM 21.7.2.7.6(4) Removed table with temporary procedures and altered text to direct the reader to new subsections IRM 21.7.2.7.6.1 and IRM 21.7.2.7.6.2 containing procedural guidance for inquiries at issue.**

4. Address taxpayer inquiries for these topics as per guidance in IRM 21.7.2.7.6.1, *First Quarter 2020 Form 941 — Deferred Payment of Employer’s Share of Social Security Taxes*, and IRM 21.7.2.7.6.2, *Employee Retention Credit — First Quarter 2020 Form 941*. This includes Forms 4442 previously created per temporary instructions pending development of handling guidance; treat such Forms 4442 as paper cases for resolution purposes.

**IRM 21.7.2.7.6.1 Added new subsection with procedural guidance for handling inquiries related to deferred payment on first quarter 2020 Form 941 accounts.**

1. Due to timing matters, Form 941 for the first quarter of 2020 could not be revised before the filing due date to account for deferred payment provisions. Accordingly, there is no line on the form for the taxpayer to report any deferred payment amounts which might apply. And, because deferred payment provisions apply to only a portion of the tax period (deposits and payments otherwise due on or after March 27, 2020 or after), the computer is not capable of determining the correct amount that could be deferred for first quarter 2020 Form 941 accounts.

**NOTE:** See IRM 21.7.2.7.3, *Deferred Payment of Employer’s Share of Social Security Taxes for 2020*, for general information on deferred payment provisions and description of CRN 280.

2. Process inquiries regarding deferred payment amounts for first quarter 2020 Form 941 accounts, including responses to Notice 1447, as per the guidance found in (3), (4), (5), and (6) below.
3. **For phone inquiries**, handle as follows:
  1. Advise the taxpayer that the amount that can be deferred for first quarter 2020 is limited to the employer’s share of social security tax

due with deposits and payments that would otherwise be required to be made during the period beginning on March 27, 2020 and ending March 31, 2020 as well as deposits and payments due after March 31, 2020 that are required for wages paid during the quarter ending on March 31, 2020.

2. Ask the taxpayer for the amount of employer's share of social security tax they are requesting to be deferred for first quarter.
3. If the taxpayer is able to provide the figure for the deferral amount, follow the guidance provided in the table in (5) below.

**EXCEPTION:** If the amount of the balance due on the first quarter 2020 Form 941 account is less than the amount provided by the taxpayer for the deferral amount (or there is no balance due on the account), advise the taxpayer we are unable to take any action on their account at this time and to submit their request in writing with their calculation of the deferral amount. Input STAUPS on the account for 9 weeks if the account reflects a balance due.

**EXCEPTION:** If the taxpayer indicates a portion of the balance due on the first quarter 2020 Form 941 account is/was due to reducing deposits for Employee Retention Credit subsequently claimed on their Form 941 for the second quarter of 2020, advise the taxpayer we are unable to take any action on their account at this time and to submit their request in writing with their calculation of the deferral amount and the amount by which they reduced deposits on the first quarter for Employee Retention Credit. Input STAUPS on the account for 9 weeks if the account reflects a balance due.

4. If the taxpayer is unable to provide the figure for the deferral amount, advise the taxpayer that we are unable to assist them without that information and to call or write in when they can provide it. Input STAUPS on the account for 9 weeks if the account reflects a balance due.
4. **For paper responses**, including inquiries previously documented/suspended on Forms 4442 pending guidance development, handle as follows:

If	And	Then
The taxpayer's correspondence does not provide a figure for the deferral amount	A telephone number is available	<ol style="list-style-type: none"> <li>1. Make two attempts to contact the taxpayer by phone to determine the amount of employer's share of social security tax they are requesting to be deferred for first quarter.</li> <li>2. If contact is successful, follow Steps 1 through 3 <b>(but not the</b></li> </ol>

		<p><b>exceptions) in (3) above.</b></p> <p>3. Otherwise, proceed to the next row of this table.</p>
The taxpayer's correspondence does not provide a figure for the deferral amount	A telephone number is not available <b>or</b> attempts to obtain the information via telephone were unsuccessful	Send a letter to the taxpayer informing them we cannot consider their request since they did not provide a figure for the amount of employer's share of social security tax they are requesting to be deferred for first quarter and advise them to provide the figure by phone or in writing. Close the case.
The taxpayer's correspondence provided a figure for the deferral amount or it was obtained via phone contact		<p>Follow the guidance provided in table found in (5) below.</p> <p><b>EXCEPTION:</b> If the amount of the balance due on the first quarter 2020 Form 941 account is less than the amount provided by the taxpayer for the deferral amount (or there is no balance due on the account), or if the taxpayer has also indicated they reduced first quarter deposits for Employee Retention Credit, contact the IRM author through your management chain and the site P&amp;A Staff for guidance on handling the case.</p>

5. For inquiries (phone or paper) for which the amount of the requested first quarter deferral has been provided, handle as follows:

If	And	Then
The taxpayer's first quarter tax is \$2,500 or less		<p>1. # [REDACTED]</p> <p>2. If the figure provided by the [REDACTED] #</p>

		<p>taxpayer for delayed payment is less than or equal to the amount computed in Step 1, accept the taxpayer's figure and input a TC 290 .00 and a CRN 280 for the amount provided by the taxpayer. See the note following this table for required statement confirming action taken.</p> <p>3. If the figure stated by the taxpayer for deferred payment is <b>more than</b> the amount computed in Step 1, input a TC 290 .00 and a CRN 280 for the amount computed in Step 1. Advise the taxpayer the maximum deferral amount is 6.2% of the wages paid during the deferral period that were subject to social security taxes (and any Section 3121(q) amount if applicable) and that we could only record a deferral for amount computed (specify). See (6) below for required statement confirming action taken.</p>
If the taxpayer's return reports more than \$2,500 in tax	SIC code 1 is present on the module	<p>1. Advise the taxpayer we are unable to take any action on their account at this time and to submit their request in writing with their calculation of the deferral amount and a valid Record of Federal Tax Liability (ROFTL).</p> <p>2. Input STAUPS on the account for 9 weeks if the account reflects a balance due.</p>
If the taxpayer's return contains a valid Monthly Schedule of Federal Tax Liability (MSOFTL) record:		<p>1. # [REDACTED] #</p> <p>2. If the figure stated by the taxpayer for deferred payment is less than or equal to the amount computed in Step 1, accept the taxpayer's figure. Input a TC 290 .00 and a CRN 280 for the amount provided by the</p>

		<p>taxpayer. See (6) below for required statement confirming action taken.</p> <ol style="list-style-type: none"> <li>3. <b>For phone inquiries</b>, if the figure stated by the taxpayer for deferred payment is <b>more than</b> the amount computed in Step 1, advise the taxpayer we are unable to take any action on their account at this time and to submit their request in writing with their calculation of the deferral amount.</li> <li>4. <b>For paper responses</b>, if the figure stated by the taxpayer for deferred payment is <b>more than</b> the amount computed in Step 1, contact the IRM author through your management chain and the site P&amp;A Staff for guidance on handling the case.</li> </ol>
<p>If the taxpayer's return contains a Schedule B record:</p>		<ol style="list-style-type: none"> <li>1. # </li> <li>2. If the figure stated by the taxpayer for deferred payment is less than or equal to the amount computed in Step 1, accept the taxpayer's figure. Input a TC 290 .00 and a CRN 280 for the amount provided by the taxpayer. See (6) below for required statement confirming action taken.</li> <li>3. <b>For phone inquiries</b>, if the figure stated by the taxpayer for deferred payment is <b>more than</b> the amount computed in Step 1, advise the taxpayer we are unable to take any action on their account at this time and to submit their request in writing with their calculation of the deferral amount.</li> <li>4. <b>For paper responses</b>, if the</li> </ol>

		<p>figure stated by the taxpayer for deferred payment is <b>more than</b> the amount computed in Step 1, contact the IRM author through your management chain and the site P&amp;A Staff for guidance on handling the case.</p>
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6. If CRN 280 is input to an account per the instructions in the table above, the following text (both paragraphs) **must** be recited to the taxpayer before closing the call or, if working a paper case, inserted into open paragraphs in an appropriate "C" letter:

- o "We recorded the deferred tax payment amount of \$[specify amount] on your Form 941 account for tax period ending March 31, 2020. Fifty percent of the maximum allowable deferred employer Social Security taxes payment amount is due by December 31, 2021 and the remaining amount will be due by December 31, 2022. No penalties or interest will be due on these amounts if they are paid in full by the due dates."
- o "The IRS plans to issue reminder notices with the amounts due shortly before the due dates for payment. In the meantime, any payments made for (or overpayment on) the first quarter 2020 account will be applied to your liabilities due on December 31, 2021 and December 31, 2022."

**IRM 21.7.2.7.6.2 Added new subsection with procedural guidance for handling inquiries related to reduced deposits on first quarter 2020 Form 941 accounts in anticipation of claiming Employee Retention Credit (ERC).**

1. Due to timing matters, Form 941 for the first quarter of 2020 could not be revised before the filing due date to account for the new Employee Retention Credit (ERC) applicable to tax year 2020. Accordingly, there are no lines on the form for the taxpayer to report any Employee Retention Credit or associated qualified wages and qualified health plan expenses paid for the period beginning on March 13, 2020 and ending March 31, 2020. Instead, taxpayers must report amounts allocable to this time period on their Form 941 for the second quarter of 2020. **However, employers were permitted to reduce otherwise required federal tax deposits for the first quarter in anticipation of claiming Employee Retention Credit attributable to the first quarter when they filed their Form 941 for the second quarter of 2020.** As such, some taxpayers may have a balance due on their first quarter account after filing.

**NOTE:** See IRM 21.7.2.7.2, *Employee Retention Credit*, for general information on this credit.

**REMINDER:** The refundable portion of the Employee Retention Credit is recorded with CRN 296.

2. Process inquiries regarding reduced deposits for first quarter 2020 Form 941 accounts in anticipation of claiming Employee Retention Credit, including responses to Notice 1447, as per the guidance found in (3), (4), and (5) below.
3. **For phone inquiries**, advise the taxpayer that the amount by which deposits for the first quarter 2020 could be reduced is limited to the amount of Employee Retention Credit attributable to qualified wages and health plan expenses paid for the period beginning on March 13, 2020 and ending March 31, 2020 as reported on their second quarter 2020 Form 941. Ask the taxpayer for the amount by which they reduced first quarter deposits and continue processing as per instructions in the table which follows:

If	Then
The first quarter 2020 Form 941 has not posted	<ol style="list-style-type: none"> <li>1. Advise the taxpayer we are unable to take any action on their account at this time because their first quarter 2020 Form 941 has not yet been processed, to file the return (or a newly signed copy) if they have not already done so, and to either contact us again when they receive a balance due notice or to submit their request in writing, including the amount by which they reduced their first quarter deposits.</li> <li>2. If the second quarter 2020 Form 941 tax account is posted and overpaid, input a TC 570 on that module to freeze the overpayment.</li> <li>3. Input a history item "1STQTRERC" on TXMOD for both tax periods.</li> </ol>
The second quarter 2020 Form 941 has not posted	<ol style="list-style-type: none"> <li>1. Advise the taxpayer we are unable to take any action on their account at this time because their second quarter 2020 Form 941 has not been</li> </ol>

	<p>processed, to file the return (or a newly signed copy) if they have not already done so, and to submit their request in writing, including the amount by which they reduced their first quarter deposits.</p> <ol style="list-style-type: none"> <li>2. Input STAUPS on the first quarter 2020 account for 9 weeks if the account reflects a balance due.</li> <li>3. Input a history item "1STQTRERC" on TXMOD for both tax periods.</li> </ol>
<p>The second quarter 2020 Form 941 was overpaid and a refund was issued</p>	<ul style="list-style-type: none"> <li>o If the taxpayer has not yet cashed or received the refund check, advise the taxpayer to annotate the refund check with "VOID" and to return it with correspondence explaining the issue, including the amount by which they reduced first quarter deposits.</li> <li>o If the taxpayer has cashed the refund check, advise taxpayer to pay the first quarter amount showing as due along with correspondence explaining the issue, including the amount by which they reduced first quarter deposits, and to request reconsideration of penalties and interest in writing.</li> </ul>
<p>The second quarter 2020 Form 941 was overpaid and the overpayment was offset (whether to first quarter 2020 or some other outstanding balance due)</p>	<ol style="list-style-type: none"> <li>1. Advise the taxpayer we are unable to take any action on their account at this time and to submit their request in writing, including the amount by which they reduced their first quarter deposits.</li> <li>2. Input STAUPS on the first quarter 2020 account for 9 weeks if the account reflects a balance due.</li> <li>3. Input a history item</li> </ol>

	"1STQTRERC" on TXMOD for both tax periods.
The amount of the balance due on the first quarter 2020 Form 941 account is less than the amount provided by the taxpayer for reduced deposits (or there is no balance due on the account)	<ol style="list-style-type: none"> <li>1. Advise the taxpayer we are unable to take any action on their account at this time and to submit their request in writing, including the amount by which they reduced their first quarter deposits.</li> <li>2. Input STAUPS on the first quarter 2020 account for 9 weeks if the account reflects a balance due.</li> <li>3. If the second quarter 2020 Form 941 tax account is posted and overpaid, input a TC 570 on that module to freeze the overpayment.</li> <li>4. Input a history item "1STQTRERC" on TXMOD for both tax periods.</li> </ol>
The taxpayer indicates a portion of the balance due on the first quarter 2020 Form 941 account is related to deferred payment of employer's share of social security taxes <b>or</b> the taxpayer deferred payment of employer's share of social security taxes on the second quarter 2020 Form 941 account (i.e., posted CRN 280 amount)	<ol style="list-style-type: none"> <li>1. Advise the taxpayer we are unable to take any action on their account at this time and to submit their request in writing with their calculation of the deferral amount and the amount by which they reduced deposits on the first quarter for Employee Retention Credit.</li> <li>2. Input STAUPS on the account for 9 weeks if the account reflects a balance due.</li> <li>3. If the second quarter 2020 Form 941 tax account is posted and overpaid, input a TC 570 on that module to freeze the overpayment.</li> <li>4. Input a history item "1STQTRERC" on TXMOD for both tax periods.</li> </ol>
No other row of this table applies	The amount by which first quarter deposits could be reduced for Employee Retention Credit reported on second quarter return must be

	<p>established.</p> <ol style="list-style-type: none"> <li>1. If not already done, ask the taxpayer for the amount by which deposits for the first quarter 2020 were reduced in anticipation of claiming Employee Retention Credit.</li> <li>2. Review the second quarter Form 941 tax return record and obtain the figures corresponding to Lines 24 (TC 970 field "QLFY-EMPL-MARCH-WG-PD-AMT") and 25 (TC 970 field "QLFY-HLTH-PLN-MARCH-AMT"), add those two figures together, and divide the sum by 2.</li> <li>3. Review the first quarter Form 941 to determine the tax reported and subtract the total payments made by the return due date (April 30, 2020).</li> <li>4. The figure to be used for further processing is the lesser of the result determined in Step 1, Step 2, or Step 3 above. Continue to process the taxpayer's inquiry as per guidance in the table in (5) below.</li> </ol>
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4. **For paper responses**, including inquiries previously documented/suspended on Forms 4442 pending guidance development, handle as follows:

If	And	Then
The first quarter 2020 Form 941 has not posted	There is an indication the return was received and is being processed	<ol style="list-style-type: none"> <li>1. If the second quarter 2020 Form 941 tax account is posted and overpaid, input a TC 570 on that module to freeze the overpayment.</li> <li>2. Input a history item "1STQTRERC" on TXMOD for both first and second quarter</li> </ol>

		<p>2020 Form 941 tax periods.</p> <ol style="list-style-type: none"> <li>3. Monitor the account for posting of the first quarter return.</li> <li>4. If the return posts, or it is determined the in-house return will never post, continue to process per guidance found in the table rows below.</li> </ol>
The first quarter 2020 Form 941 has not posted	<p>There is <b>no</b> indication the return was received and is being processed <b>or</b> handling was previously suspended as per instructions in the table row above and it has been determined the return in-house will never post</p>	<ol style="list-style-type: none"> <li>1. Send the taxpayer a letter and indicate we cannot address their inquiry because their Form 941 return for the first quarter of 2020 has not been processed. Advise them to file the return (or a newly signed copy) for that tax period and to contact us again if they receive a balance due notice.</li> <li>2. If the second quarter 2020 Form 941 tax account is posted and overpaid, input a TC 570 on that module (if not already done) to freeze the overpayment.</li> <li>3. Input a history item "1STQTRERC" on TXMOD for both first and second quarter 2020 Form 941 tax periods (if not already done).</li> <li>4. Close the case.</li> </ol>

<p>The second quarter 2020 Form 941 has not posted</p>	<p>The normal timeframe for posting has not expired</p>	<ol style="list-style-type: none"> <li>1. Input a history item "1STQTRERC" on TXMOD for both first and second quarter 2020 Form 941 tax periods (if not already done).</li> <li>2. Monitor the account for posting of the second quarter return.</li> <li>3. If the return posts, or the normal timeframe for posting has expires, continue to process per guidance found in the table rows below.</li> </ol>
<p>The second quarter 2020 Form 941 has not posted</p>	<p>The normal timeframe for posting has expired</p>	<ol style="list-style-type: none"> <li>1. Send the taxpayer a letter and indicate we cannot address their inquiry because their Form 941 return for the second quarter of 2020 has not been processed. Advise them to file the return (or a newly signed copy) and to resubmit their request regarding first quarter reduced deposits at that time.</li> <li>2. Input STAUPS on the first quarter 2020 account for 9 weeks if the account reflects a balance due.</li> <li>3. Input a history item "1STQTRERC" on TXMOD for both first and second quarter 2020 Form 941 tax</li> </ol>

		<p>periods (if not already done).</p> <p>4. Close the case.</p>
The second quarter 2020 Form 941 was overpaid and a refund was issued	The refund can be intercepted	Initiate an intercept request and suspend the case until the TC 841 posts. Once the TC 841 is posted, continue to process the correspondence per guidance found in the table rows below.
The second quarter 2020 Form 941 was overpaid and a refund was issued	The refund cannot be intercepted or an intercept request failed	<ol style="list-style-type: none"> <li>1. Send the taxpayer a letter and indicate we cannot address their inquiry because the overpayment on their Form 941 return for the second quarter of 2020 was refunded. Advise the taxpayer to annotate the refund check with "VOID" and to return it with correspondence explaining the issue, including the amount by which they reduced first quarter deposits or to pay the first quarter amount showing as due and request reconsideration of penalties and interest in writing.</li> <li>2. Input STAUPS on the first quarter 2020 account for 9 weeks if the account reflects a balance due.</li> <li>3. Input a history item "1STQTRERC" on TXMOD for both first and second quarter 2020 Form 941 tax</li> </ol>

		<p>periods (if not already done).</p> <p>4. Close the case.</p>
<p>The correspondence indicates the taxpayer is also deferring employer's share of social security taxes for the first quarter 2020 Form 941 account <b>or</b> the taxpayer deferred payment of employer's share of social security taxes on the second quarter 2020 Form 941 account (i.e., posted CRN 280 amount)</p>		<p>Contact the IRM author through your management chain and the site P&amp;A Staff for guidance on handling the case.</p>
<p>The taxpayer's correspondence does not provide an amount by which they reduced first quarter deposits in anticipation of claiming Employee Retention Credit</p>	<p>A telephone number is available</p>	<ol style="list-style-type: none"> <li>1. Make two attempts to contact the taxpayer by phone to determine the amount by which they reduced first quarter deposits for anticipated Employee Retention Credit.</li> <li>2. If contact is successful, follow the guidance for phone contacts in <b>the last row (only)</b> of the table in (3) above.</li> <li>3. Otherwise, proceed to the next row of this table.</li> </ol>
<p>The taxpayer's correspondence does not provide an amount by which they reduced first quarter deposits in anticipation of claiming Employee</p>	<p>A telephone number is not available <b>or</b> attempts to obtain the information via telephone were</p>	<p>The amount by which first quarter deposits could be reduced for Employee Retention Credit reported on second quarter return must be established.</p>

Retention Credit	unsuccessful	<ol style="list-style-type: none"> <li>1. Review the second quarter Form 941 tax return record and obtain the figures corresponding to Lines 24 (TC 970 field "QLFY-EMPL-MARCH-WG-PD-AMT") and 25 (TC 970 field "QLFY-HLTH-PLN-MARCH-AMT"), add those two figures together, and divide the sum by 2.</li> <li>2. Review the first quarter Form 941 to determine the tax reported and subtract the total payments made by the return due date (April 30, 2020).</li> <li>3. The figure to be used for further processing is the lesser of the result determined in Step 1 or Step 2 above. Continue to process the taxpayer's inquiry as per guidance in the table in (5) below.</li> </ol>
The taxpayer's correspondence provided an amount by which they reduced first quarter deposits in anticipation of claiming Employee Retention Credit	None of the conditions in the rows above apply (or they do not continue to apply after the specified processing steps were followed)	<p>The amount by which first quarter deposits could be reduced for Employee Retention Credit reported on second quarter return must be established.</p> <ol style="list-style-type: none"> <li>1. Review the second quarter Form 941 tax return record</li> </ol>

		<p>and obtain the figures corresponding to Lines 24 (TC 970 field "QLFY-EMPL-MARCH-WG-PD-AMT") and 25 (TC 970 field "QLFY-HLTH-PLN-MARCH-AMT"), add those two figures together, and divide the sum by 2.</p> <p>2. Review the first quarter Form 941 to determine the tax reported and subtract the total payments made by the return due date (April 30, 2020).</p> <p>3. The figure to be used for further processing is the lesser of the taxpayer supplied figure, the figure determined in Step 1 above, or the figure determined Step 2 above. Continue to process the taxpayer's inquiry as per guidance in the table in (5) below.</p>
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5. For inquiries (phone or paper) for which an amount by which first quarter 2020 Form 941 deposits were reduced in anticipation of Employee Retention Credit was determined as per guidance in (3) or (4) above, handle as follows:

<b>If</b>	<b>Then</b>
The amount determined in (3) or (4) above is less than or equal to the amount of	1. Input a TC 820/700 credit transfer to move the amount determined as per (3) or (4) above from the second quarter 2020 Form 941 account to the first

<p>overpayment available on the second quarter 2020 Form 941 account</p>	<p>quarter 2020 Form 941 account. Enter "07312020" (second quarter return due date) for the transaction date of the TC 820 debit transaction. Enter "03132020" (legislative effective date) for the transaction date of the TC 700 credit transaction.</p> <ol style="list-style-type: none"> <li>2. As appropriate, take action to address any remaining overpayment on the second quarter account after initiation of the credit transfer.</li> <li>3. Advise the taxpayer verbally or in writing as to the amount of credit reapplied, that any penalties or interest on first quarter account will be recomputed, and that a notice reflecting the correction will be issued.</li> </ol>
<p>The amount determined in (3) or (4) above is more than the amount of overpayment available on the second quarter 2020 Form 941 account</p>	<ul style="list-style-type: none"> <li>○ <b>For Phone Inquiries:</b> <ol style="list-style-type: none"> <li>1. Advise the taxpayer we are unable to take any action on their account at this time and to submit their request in writing, including the amount by which they reduced their first quarter deposits.</li> <li>2. Input STAUPS on the first quarter 2020 account for 9 weeks if the account reflects a balance due.</li> <li>3. If the second quarter 2020 Form 941 tax account is posted and overpaid, input a TC 570 on that module to freeze the overpayment.</li> <li>4. Input a history item "1STQTRERC" on TXMOD for both tax periods.</li> </ol> </li> <li>○ <b>For Paper Cases:</b> Contact the IRM author through your management chain and the site P&amp;A Staff for guidance on handling the case.</li> </ul>