

Reporter

Summer 2021

A Newsletter for Employers

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Employers entitled tax credits, under the American Rescue Plan

The American Rescue Plan Act of 2021 (ARP) allows small and midsize employers, and certain governmental employers, to claim refundable tax credits. These credits reimburse them for the cost of providing paid sick and family leave to their employees due to COVID-19, including leave taken by employees to receive or recover from COVID-19 vaccinations. The ARP tax credits are available to eligible employers that pay sick and family leave for leave from April 1, 2021, through September 30, 2021.

Here are some basic facts about the employers eligible for the tax credits and how these employers may claim the credit for leave paid to employees who take leave to receive or recover from COVID-19 vaccinations.

Eligible Employers

An eligible employer is any business, including a tax-exempt organization, with fewer than 500 employees. An eligible employer also includes a governmental employer, other than the federal government and any agency or instrumentality of the federal government that is not an organization described in section 501(c)(1) of the Internal Revenue Code. Self-employed individuals are eligible for similar tax credits.

Paid sick and family leave for which tax credits can be claimed

Eligible employers are entitled to tax credits for wages paid for leave taken by employees who are not able to work or telework due to reasons related to COVID-19. This includes leave taken to receive COVID-19 vaccinations or to recover from any injury, disability, illness or condition related to the vaccinations.

The amount of the tax credits and how they are calculated

The paid leave credits under the ARP are tax credits against the employer's share of the Medicare tax. The tax credits are refundable, which means that the employer is entitled to payment of the full amount of the credits if it exceeds the employer's share of the Medicare tax.

The tax credit for paid sick leave wages is equal to the sick leave wages paid for COVID-19 reasons for up to two weeks (80 hours). This tax credit is limited to \$511 per day and \$5,110 in the aggregate, at 100 percent of the employee's regular rate of pay. The tax credit for paid family leave wages is equal to the family leave wages paid for up to 12 weeks, limited to \$200 per day and \$12,000 in the aggregate, at two-thirds of the employee's regular rate of pay. The amount of these tax credits is increased by allocable health plan expenses and contributions for certain collectively bargained benefits, as well as the employer's share of Social Security and Medicare taxes paid on the wages (up to the respective daily and total caps).

Claiming the credit

Eligible employers may claim tax credits for sick and family leave paid to employees, including leave taken to receive or recover from COVID-19 vaccinations, for leave from April 1, 2021, through September 30, 2021.

Eligible employers report their total paid sick and family leave wages for each quarter on their federal employment tax return, usually [Form 941, Employer's Quarterly Federal Tax Return](#). The total should include the eligible health plan expenses, collectively bargained contributions and the eligible employer's share of Social Security and Medicare taxes on the paid leave wages.

Most employers use Form 941 to report income tax and Social Security and Medicare taxes withheld from employee wages, as well as the employer's own share of Social Security and Medicare taxes.

In anticipation of claiming the credits on Form 941, eligible employers can keep the federal employment taxes that they otherwise would have deposited, including federal income tax withheld from employees, the employees' share of Social Security and Medicare taxes and the eligible employer's share of Social Security and Medicare taxes with respect to all employees up to the amount of credit for which they are eligible. The [Form 941 instructions](#) explain how to reflect the reduced liabilities for the quarter related to the deposit schedule.

Eligible employers that don't have enough federal employment taxes set aside for deposit to cover amounts provided as paid sick and family leave wages can still request an advance of the credits. The amounts include the eligible health plan expenses and collectively bargained contributions, and the eligible employers' share of Social Security and Medicare taxes on the paid leave wages. Eligible employers may request an advance of the credits by filing [Form 7200, Advance Payment of Employer Credits Due to COVID-19](#). Eligible employers will account for the amounts received as an advance when they file their Form 941, Employer's Quarterly Federal Tax Return, for the relevant quarter.

Self-employed individuals may claim comparable tax credits on their individual [Form 1040, U.S. Individual Income Tax Return](#). [IRS](#)

The New Wage File Upload Process

In January 2021, SSA piloted a new electronic W-2 file upload process to a limited set of participants. The results were outstanding, and the agency received positive feedback.

Starting in January 2022, SSA will process W-3 and W-2 data from employers and third-party submitters through the new Wage File Upload.

The new Wage File Upload features include:

- Real-time checks for errors and an easy-to-read list of errors
- Files processed in less than 60 seconds
- Wage File Identifier (WFID) issued within minutes if file completes processing (If your file has errors you will not receive a WFID)
- Cleaner look with fewer clicks to submit your file

SSA

Truncated Social Security Numbers (SSNs)

Truncated SSNs and Truncated Taxpayer Identification Numbers (also known as TTINs) reporting is optional and began with Tax Year 2020 on the employee copies of the W-2 and W-2C. Employers who decide to truncate SSNs or TTINS must do the following:

- Mask the first 5 characters of the SSN or TTIN with asterisks or the “X” character.
- Do not mask SSNs on paper copy A or in EFW2 files that you send to Social Security. SSA cannot process truncated SSNs.

Although likely rare, if the employer accidentally submits TTINs to SSA, the agency will process them as any other invalid name-SSN mismatch. ssa

IRS Data Affirms Payroll’s Vital Role in Nation’s Tax System

The IRS recently released the 2020 [Internal Revenue Service Data Book \(.pdf\)](#), which provides statistics that underscore the importance of payroll professionals to the integrity of the American tax system.

Employment taxes are primary source

The IRS Data Book reports that, of the approximately \$3.49 trillion paid into the Treasury in fiscal year 2020 (October 1, 2019 – September 30, 2020), nearly \$2.47 trillion was transmitted by employers for employment taxes. This represents 70.65% of all federal revenue. Payroll payments included:

- \$1.27 trillion in withheld individual income taxes
- \$1.19 trillion in employer and employee FICA (social security and Medicare) taxes
- \$6.3 billion in unemployment insurance tax and
- \$5.2 billion in Railroad Retirement Tax Act taxes.

Other data for FY 2020

Employment tax penalties. Compliance with employment tax requirements continues to be a problem area. The IRS Data Book reports that in FY 2020 the IRS assessed nearly 4.3 million civil penalties, which amounted to \$6 billion and an average penalty assessment of approximately \$1,395. Of these, 2.43 million were for failure to pay for a total of \$1.15 billion, and 1 million were federal tax deposit penalties for a total of \$4.1 billion. The IRS also abated more than 576,000 employment tax penalties totaling \$16.8 billion.

Information returns. The IRS received 3.4 billion information returns, which included Forms 1099-MISC, 1042-S and W-2. Of the returns received, 3 billion were filed electronically; 9.5 million were filed on paper; and 334 million were categorized as other (which includes Forms W-2 processed by the Social Security Administration and then filed with the IRS). *APA*

Payroll Management and the New Juneteenth Federal Holiday

On June 17, President Biden signed S. 475, the Juneteenth National Independence Day Act, into law, which makes Juneteenth a new federal holiday starting in 2021. The official holiday is observed on June 19, but in 2021 it was observed on June 18 since June 19 was a Saturday [[Pub. L. 117-17](#)]. The holiday recognizes the date – June 19, 1865 – when Union Gen. Gordon Granger arrived in Galveston, Texas, to inform enslaved African Americans of their freedom and that the U.S. Civil War had ended.

Employment tax deposits

For employers that had a June 18 employment tax deposit deadline, the sudden addition of a new federal holiday raised the question of whether the deadline would be moved to the next business day, which was Monday, June 21. The general rule is that when a due date falls on a Saturday, Sunday, or legal holiday, the due date becomes the next business day. This seems straightforward, but there is a question of how to define a “legal holiday.”

In 1996, the IRS issued regulations that changed the definition of “legal holiday” by eliminating the list that had been in the regulations and substituting a reference to “legal holidays in the District of Columbia.” In 2010, the IRS further clarified this issue as part of the regulations that require all employers to deposit federal employment taxes through its Electronic Federal Tax Payment System. The rules clearly state that only Saturdays, Sundays and federal legal holidays – those observed in the District of Columbia – delay the due date for filing a return or making a deposit.

While the legislation made Juneteenth a federal holiday, there is some question as to whether it was an official holiday for the District of Columbia. In a [press release](#), Washington, D.C., Mayor Muriel Bowser did announce that the District of Columbia government would observe the holiday.

Other payroll considerations

Private-sector employers are not required to recognize any federal or state holidays or provide paid or unpaid leave for the Juneteenth holiday. The Fair Labor Standards Act does not require payment for

time not worked. In addition to determining how to handle the holiday for 2021, employers that decide to recognize the Juneteenth holiday going forward need to update their payroll systems accordingly.

Payroll managers may be on employer teams regarding paid time-off decisions. They also may be asked by employees about their employers' policies. Payroll managers should seek written statements from employers so they can direct employees to the company's official leave policies. **APA**

IRS Issues Guidance on Dependent Care Assistance Programs

The IRS issued guidance that clarifies amounts attributable to carryovers or extensions for dependent care assistance programs (DCAPs) for 2021 and 2022 are generally not taxable [Notice 2021-26 2021-21 IRB 1157]. The notice also addresses the one-year increase in the exclusion for employer-provided dependent care benefits. That increase went from \$5,000 to \$10,500, or from \$2,500 to \$5,250 in the case of a separate return filed by a married individual for 2021, as allowed by the American Rescue Plan Act of 2021 (ARP).

Background

During the COVID-19 pandemic, many people have been unable to use the money they set aside in their DCAPs in 2020 and 2021. Generally, under these plans, an employer allows its employees to set aside pretax wages to pay for dependent care expenses. Employee expenses are then reimbursed from the DCAP. For 2020, the exclusion could not exceed \$5,000, or \$2,500 in the case of a separate return filed by a married individual. Carryovers of unused amounts are generally not permitted (other than for a 2½-month grace period).

The Consolidated Appropriations Act, 2021 (CAA) allowed employers to amend their plans to permit the carryover of unused DCAP amounts to plan years ending in 2021 and 2022. Or employers could extend the period for incurring claims to plan years over the same period. Notice 2021-15 provided guidance on the CAA flexibility.

The CAA extends the following relief to DCAPs:

- Flexibility for carryovers of unused amounts from the 2020 and 2021 plan years,
- Flexibility to extend the grace period for plan years ending in 2020 and 2021, and
- Flexibility to allow mid-year election changes for plan years ending in 2021.

The temporary rules allow employers, at their discretion, to extend these benefits. Employers may choose to adopt an extended period for incurring claims that is less than 12 months or to adopt a period that ends before the end of the plan year. During that time, employees who have ceased participation in a plan may continue to receive reimbursements.

Benefits are not generally wages

Notice 2021-26 states that if the DCAP benefits would have been excluded from income if used during 2020 or 2021, they will remain excludable from gross income. Thus, the benefits are not employee wages for the taxable years ending in 2021 and 2022. In addition, the notice clarifies the benefits will not be taken into account for purposes of limits under IRC § 129 to other dependent care benefits available for taxable years ending in 2021 and 2022.

Tax implications for non-calendar year plans

The ARPA increased the exclusion for employer-provided dependent care to \$10,500 for the individual's 2021 taxable year, not the plan year. Accordingly, in the case of a DCAP offered by a § 125 cafeteria plan with a non-calendar plan year beginning in 2021 and ending in 2022, the increased exclusion amount will not apply to reimbursement of expenses incurred during the 2022 portion of the plan year.

Reimbursement of more than \$5,000 from the DCAP may result in some of the employee's contribution to the DCAP for the 2021 plan year – that's used to reimburse expenses incurred during the 2022 taxable year – becoming taxable upon reimbursement. Also, unused DCAP benefits from one taxable year of the participant (typically the calendar year) used to reimburse expenses incurred in the immediately following taxable year, where the expenses are incurred during the same non-calendar plan year spanning those two taxable years, are not carryover benefits or benefits made available under an extended claims period.

Three examples

The notice provides three examples where the employee's taxable year is the calendar year and the employee is not a married individual filing separately. The examples assume that the IRC § 129 exclusion for the 2022 taxable year reverts to \$5,000.

Example 1. An employee is covered by a calendar year § 125 cafeteria plan that offers a DCAP benefit. The employee elects no DCAP benefits for 2019. The employee elects to contribute \$5,000 for DCAP benefits for 2020 but incurs no expenses during the plan year. The CAA allows the employee to carry over the unused \$5,000 to the 2021 plan year. The employee elects to contribute \$10,500 for DCAP benefits for 2021. The employee incurs \$15,500 in dependent care expenses in 2021 and is reimbursed \$15,500. The \$15,500 is excluded from the employee's gross income and wages because \$10,500 is excluded as 2021 benefits and the remaining \$5,000 is attributable to a carryover permitted under the CAA.

Example 2. An employee is covered by a non-calendar year (July 1 to June 30) § 125 cafeteria plan that offers a DCAP benefit. The employee elects no DCAP benefits for the plan year beginning July 1, 2019. For the plan year beginning July 1, 2020, the employee elects to contribute \$5,000 for DCAP benefits but incurs no expenses. The CAA allows the employee to carry over the unused \$5,000 to the next plan year.

The employee elects to contribute \$10,500 for DCAP benefits for the plan year beginning July 1, 2021. The employee has \$15,500 available for dependent care expenses for the plan year beginning July 1, 2021. The employee incurs no dependent care expenses during the period from July 1 to

December 31, 2021 and has \$15,500 of DCAP benefits available as of January 1, 2022. For the taxable year 2021, the employee did not receive any DCAP benefits because no dependent care expenses eligible for reimbursement under the DCAP were incurred in 2021.

For the taxable year 2022, the exclusion for DCAP benefits is \$5,000. The employee incurs \$7,000 in dependent care expenses from January 1 through June 30, 2022 and is reimbursed \$7,000 by the DCAP. The § 125 cafeteria plan adopts a 2½-month grace period added to the end of the plan year beginning July 1, 2021, which allows the employee to use the unused \$8,500 of DCAP benefits until September 15, 2022. The employee elects to contribute \$5,000 for DCAP benefits for the plan year beginning July 1, 2022. The employee incurs \$8,500 in dependent care expenses during the period from July 1 through September 15, 2022 and incurs \$2,500 in dependent care expenses from September 15 through December 31, 2022. The employee is reimbursed \$11,000 by the DCAP (\$8,500 plus \$2,500). The employee receives \$18,000 (\$7,000 + \$11,000) in reimbursements during the 2022 taxable year.

Of the \$18,000 received in calendar year 2022:

- \$10,000 is excluded from the employee's gross income and wages because \$5,000 is excluded under the exclusion for DCAP benefits under IRC §129 for the taxable year 2022, and
- \$5,000 of the \$7,000 received from January 1 to June 30, 2022, is excluded because it is attributable to carryovers permitted under the CAA that would have been excluded from gross income if used in the preceding taxable year.

The remaining \$8,000 is included in the employee's gross income and wages because it is not attributable to carryovers permitted under the CAA.

Example 3. An employee is covered by a non-calendar year (July 1 to June 30) § 125 cafeteria plan that offers a DCAP benefit. The employee elects no DCAP benefits for the plan year beginning July 1, 2020 and has no unused amounts from prior plan years.

The employee elects to contribute \$10,500 for DCAP benefits for the plan year beginning July 1, 2021. The employee incurs \$5,000 in dependent care expenses from July 1 to December 31, 2021 and receives \$5,000 in reimbursements during 2021. The \$5,000 is excluded from the employee's gross income and wages pursuant to IRC § 129. The employee has \$5,500 of DCAP benefits available as of January 1, 2022.

For the taxable year 2022, the exclusion for DCAP benefits is \$5,000. The employee incurs \$5,500 in dependent care expenses from January 1 through June 30, 2022, and is reimbursed \$5,500 by the DCAP. The employee elects to contribute \$5,000 for DCAP benefits for the plan year beginning July 1, 2022. The employee incurs \$2,500 in expenses from July 1 to December 31, 2022 and is reimbursed \$2,500 by the DCAP. The employee receives a total of \$8,000 in reimbursements for DCAP benefits during 2022. Of the \$8,000 received in the 2022 taxable year, \$5,000 is excluded from the employee's gross income and wages under the exclusion for DCAP benefits under IRC § 129. The remaining \$3,000 is included in the employee's gross income and wages. **APA**

Businesses must report nonemployee compensation and backup withholding

By law, business taxpayers who pay nonemployee compensation of \$600 or more must report these payments to the IRS. They do this filing [Form 1099-NEC, Nonemployee Compensation](#).

Generally, payers must file Form 1099-NEC by January 31. For 2021 tax returns, there is no automatic 30-day extension to file Form 1099-NEC. However, an extension to file may be available under certain hardship conditions.

Nonemployee compensation may be subject to backup withholding if a payee has not provided a Taxpayer Identification Number (TIN) to the payer or the IRS notifies the payer that the payee provided a TIN that does not match their name in IRS records.

A TIN can be one of the following numbers:

- Social Security
- Employer identification
- Individual taxpayer identification
- Adoption taxpayer identification

What is backup withholding?

[Backup withholding](#) can apply to most kinds of payments reported on Forms 1099 and W-2G. The person or business paying the taxpayer doesn't generally withhold taxes from certain payments. However, there are situations when the payer is required to withhold a certain percentage of tax to make sure the IRS receives the tax due on this income. The payer's requirement to withhold taxes from payments not otherwise subject to withholding is known as backup withholding. The current backup withholding tax rate is 24%. [IRS](#)

More information:

- [Instructions for Forms 1099-MISC and 1099-NEC](#)
- [General Instructions for Certain Information Returns](#)
- [Publication 15, Employer's Tax Guide \(Circular E\)](#)

Facts to help understand backup withholding

Backup withholding is a federal tax on income that otherwise typically doesn't require tax withholding, such as 1099 and W-2G income. Taxpayers who receive this type of income may have [backup withholding](#) deducted from their payments.

Here are some basic facts about backup withholding.

Backup withholding is required on certain nonpayroll amounts when certain conditions apply

The payer making such payments to the payee doesn't generally withhold taxes, and the payees report and pay taxes on this income when they file their federal tax returns. There are, however,

situations when the payer is required to withhold a certain percentage of tax to make sure the IRS receives the tax due on this income.

Backup withholding rate is a percentage of a payment

The current percentage is 24%.

Payments subject to backup withholding include:

- Interest payments
- Dividends
- Payment card and third-party network transactions
- Patronage dividends, but only if at least half the payment is in money
- Rents, profits or other gains
- Commissions, fees or other payments for work done as an independent contractor
- Payments by brokers
- Barter exchanges
- Payments by fishing boat operators, but only the part that is paid in actual money and that represents a share of the proceeds of the catch
- Royalty payments
- Gambling winnings, if not subject to gambling withholding
- Taxable grants
- Agriculture payments

Here are some examples when the payer must deduct backup withholding:

- If a payee has not provided the payer a Taxpayer Identification Number (TIN).
 - A TIN specifically identifies the payee.
 - TINs include Social Security numbers, Employer Identification Numbers, Individual Taxpayer Identification Numbers and Adoption Taxpayer Identification Numbers.
- If the IRS notified the payer that the payee provided a TIN that does not match their name in IRS records, and the payer does not secure the correct TIN from the payee. Payees should make sure that the payer has their correct name and TIN to avoid backup withholding. **IRS**

Filing payroll taxes electronically makes good business sense

Running a business with employees can be hard work. One way business owners can make things a little easier on themselves is by filing payroll and employment taxes electronically.

There are several benefits to filing these forms electronically:

- It saves time.
- It's secure and accurate.
- The filer gets an email to confirm the IRS received the form within 24 hours.

There are two convenient ways businesses can e-file:

- Employers submitting the forms themselves will need to purchase [IRS-approved software](#). There may be a fee to file electronically. Also, the software will require a signature by one of two ways:
 - The software instructs the user to [apply for an online signature PIN](#). Taxpayers should allow at least 45 days to receive their PIN.
 - The user can scan and attach [Form 8453-EMP, Employment Tax Declaration for an IRS e-file Return](#).
- Employers can have their tax professional file the form for them. The [Authorized IRS e-file Providers for Individuals and Businesses](#) page on IRS.gov can help employers locate an [Electronic Return Originator](#) near them.

Here are some of the form's employers can e-file:

Form 940, Employer's Annual Federal Unemployment Tax Return

Employers use this form to report annual Federal Unemployment Tax Act tax.

Form 941, Employer's Quarterly Federal Tax Return

Employers use this form to report income taxes, social security tax or Medicare tax withheld from employees' paychecks. They also use it to pay their portion of Social Security or Medicare tax.

Form 943, Employer's Annual Federal Tax Return for Agricultural Employees

Employers file this form if they paid wages to one or more farmworkers and the wages were subject to social security and Medicare taxes or federal income tax withholding.

Form 944, Employer's Annual Federal Tax Return

Small employers use this form. These are employers whose annual liability for social security, Medicare and withheld federal income taxes is \$1,000 or less. These employers use this form to file and pay these taxes only once a year instead of every quarter.

Form 945, Annual Return of Withheld Federal Income Tax

Employers use this form to report federal income tax withheld from nonpayroll payments. [IRS](#)

Common but costly errors employers should avoid when filing taxes or claiming credits

Employers filing employment tax returns and claiming an employer tax credit should read the [instructions for Form 941](#) and **carefully** complete the form to avoid mistakes.

Using a reputable [tax preparer](#), such as a certified public accountant, [enrolled agent](#) or other knowledgeable tax professional can also help avoid errors. Mistakes can result in a processing delay or a balance due notice, which could mean additional delays or require filing an amended return.

Here are some important things employers should remember when preparing tax returns or claiming credits. They should:

Ensure Line 1 on Form 94X returns is accurate - Refer to the Line 1 instructions for details on entering the number of employees.

Report advanced credits received, not the requested payment of credits - If an employer hasn't received the advance payment of credit they requested, the employer should not report it on Form 941.

Use Form 7200 to request the advance payment of a credit ONLY, not for reporting the credit.

- Employers use this form to **request** the advance payment of employer credit. It is **not used** to claim the credit. An employer must claim the credit on the applicable employment tax return, typically Form 941.
- If an employer has received the advance payment requested, they must reconcile it on Form 941 by reporting the advance payments received **and** claiming the credits for which they're eligible.
- If an employer receives an advance payment of a credit but doesn't claim a corresponding credit on their employment tax return, they may receive a balance due notice.
- If an employer filed an employment tax return and did not report a credit they were otherwise entitled to, they will need to file an amended return using Form 941-X to claim those eligible credits.

Inform third-party payers or reporting agents

- Employers using third-party payers or reporting agents must tell their third-party payer or agent they requested and received an advance payment of credit.
- Third-party payers, including reporting agents, should also ask employers if they requested and received an advance payment of credit using [Form 7200, Advance Payment of Employer Credits Due to COVID-19](#), before filing Form 941.

Use fractions of cents line correctly - The fractions of cents line should be used for fractions of cents, due to rounding, relating to the employee share of Social Security and Medicare taxes.

Only claim credits they are entitled to and they shouldn't exceed limitations - Before employers claim any credits on their employment tax return, they should review [IRS guidance and the FAQs](#) on IRS.gov to make sure they:

- are eligible to claim the credit,
- are completing the forms and claiming the credits correctly; and
- don't claim a credit that exceeds the limits.

Complete amended tax returns - If an employer is amending an employment tax return to claim a credit, they must complete all the lines associated with that credit. For example, if they are amending a return to claim additional employee retention credit, they must complete the lines that relate to qualified wages for the that credit and qualified health plan expenses allocable to those wages, if applicable. [IRS](#)

Error's employers should avoid when requesting advance payment of employer credits

Employers who are filing [Form 7200, Advance Payment of Employer Credits Due to COVID-19](#) should read the instructions carefully and take their time when completing this form to avoid mistakes.

Using a reputable [tax preparer](#) – including certified public accountants, [enrolled agents](#) or other knowledgeable tax professionals – can also help avoid errors. Mistakes can result in a processing delay, which means it may take longer to get the advanced payment.

Here are some things to double-check when filling out Form 7200:

- **Missing or inaccurate Employer Identification Number.** Each EIN should be exact. Taxpayers must complete this box.
- **Calendar quarter.** Check only one box for the applicable calendar quarter.
- **Employment tax return type.** Check only one box for Part 1, Line A.
- **Credits and advance requested.** Complete Part II, Lines 1-9 using actual dollar amounts. Part II should be completed using dollar amounts, not the number of eligible employees. All lines in Part II should be completed with an actual dollar amount.
- **Federal tax deposit reductions.** Part II, Line 6 cannot be a negative dollar amount. It must be a positive number.
- **Check the math.** Taxpayers should make sure to check the math on lines 5, 7 and 9.
- **Sign the form.** Taxpayers should remember to sign the form. Failure to sign the form will result in an automatic rejection.
- **Authorized signer.** Ensure the person signing the form is authorized to do so. Failure to use an authorized signer will result in an automatic rejection.
- **Fax submission only.** Fax the completed, Form 7200 to 855-248-0552. Forms 7200 sent by mail **will not** be processed. [IRS](#)

IRS extends tax relief for employer leave-based donation programs

The Internal Revenue Service extended the tax relief provided in [Notice 2020-46](#) for calendar year 2021 for employers whose employees forgo sick, vacation or personal leave because of the COVID-19 pandemic.

[Notice 2021-42](#) provides that cash payments employers make to charitable organizations that provide relief to victims of the COVID-19 pandemic in exchange for sick, vacation or personal leave which their employees forgo will not be treated as compensation. Similarly, the employees will not be treated as receiving the value of the leave as income and cannot claim a deduction for the leave that they donated to their employer.

Employers, however, may deduct these cash payments as a business expense or as a charitable contribution deduction if the employer otherwise meets the respective requirements of either section.

The two notices provide further details for employers with leave-based donation programs.

Additional information about tax relief for those affected by the COVID-19 pandemic can be found on [IRS.gov](#) at [Coronavirus Tax Relief for Businesses and Tax-Exempt Entities](#). [IRS](#)

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