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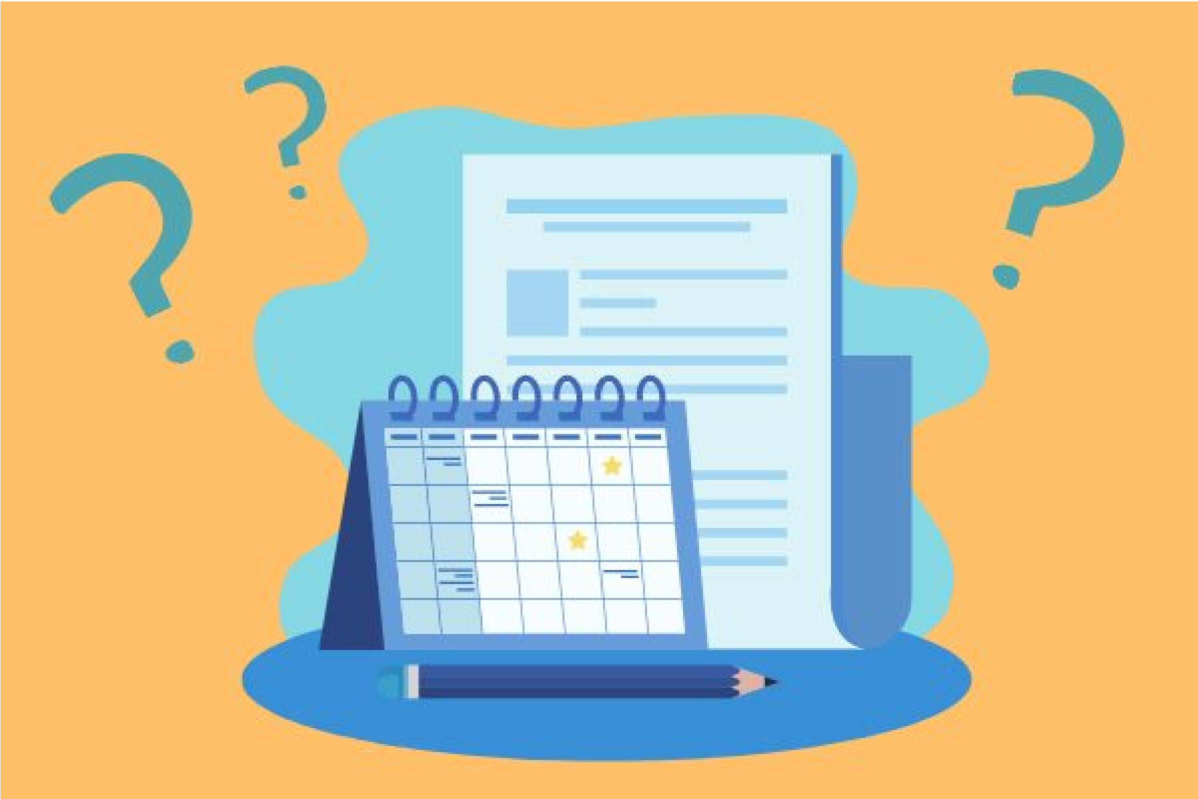
Your 2021 payroll questions answered



Payroll, even under normal circumstances, can be tricky. Recently, many organizations have also found themselves in unique and challenging situations. At times like that, you may need a little help from the experts. Below, we've answered some recent questions from readers on payroll topics in hopes of providing some of that expert insight.

We'll touch on the following topics:

- The CARES act and employer loan repayment programs.
- Paid leave tax credits for public employers.
- What do you need to do when closing offices in some states but not others?
- Severance and vacation pay when closing a business.
- Reporting no SSN on a W-2.
- Working lunches from home — are Door Dash certificates taxable income?

If any of these topics might apply to your business, then let's dive in.

The CARES Act and loan repayment programs

As a fringe benefit, our company repays some of employee student loan expenses, but it’s a modest amount. Employees qualify for this benefit only if they earn less than $100,000. We have always imputed these amounts into employees’ income and withheld taxes. Things were a bit chaotic last year, to say the least, so we didn’t notice the provision in the CARES Act under which

7600 Leesburg Pike, Suite 300, Falls Church, VA 22043-2004 (800) 543-2002

employers may pay these expenses tax-free to employees. What are our options?

You have tYou can just let things be for the 2020 tax year or you can file Forms W-2c/W-3c with the Social Security Administration to correct the FICA tax treatment of those amounts. You can't correct the income tax withholding, because your mistake wasn't administrative (transposing numbers, for example). If the amount the company picked up was modest, the FICA tax refund will be modest, too. So you'd have to weigh the time and effort of completing the W-2c process against the tax refund you'd receive.

Are we being a bit casual in suggesting you let an overpayment go? No, not really. The impact on employees is minimal. Employees can't get a tax refund on their 1040s for their overpaid FICA taxes, because the benefit is limited to those whose wages fall under the Social Security taxable wage base.

On a corporate level, you're not losing out, because you can deduct the employer's portion of FICA on your Form 1120.

This provision of the CARES Act has been extended through 2025. So going forward, you can pay employees' student loan expenses, up to $5,250 a year. But the overall amount you can exclude from employees' income under IRC § 127 is still $5,250. So you'll have to subtract your payments from any current financial aid you provide employees.

Finally, it doesn't sound to us like you have an IRC § 127 tax-qualified employer-provided educational assistance plan. You can find more information about these plans in Pub. 15-B. The IRS hasn't released the 2021 edition yet, but the rules are the same.

Paid leave tax credits for public employers

We're a public employer. Even though we're ineligible for the paid leave tax credits, we have chosen to extend leave to employees through March 31, 2021. Do we still have the benefit of not paying the employer's share of Social Security taxes for this paid leave?

Yes. The Consolidated Appropriations Act extended the paid leave credits and the exclusion from the employer's share Social Security taxes through March 31, 2021, without making any other changes. The draft of the 2021 Form 941 still breaks out paid sick/family leave wages from taxable Social Security wages and taxes them at 6.2%, which is the employees' share of Social Security taxes.

In an interesting twist, the pandemic relief bill speeding through Congress flips the credit to the employer's share of Medicare taxes. This seemingly small change means public employers could qualify for the credit, since most public employers pay Medicare taxes.

What do you need to do when closing offices in some states but not others?

As a result of the pandemic, we are permanently closing offices in New York, New Jersey, Connecticut, Rhode Island, and Massachusetts. How are payroll closures handled? Do we need to keep our state tax accounts open? What if we want to restart businesses in those states at a later date? What about our federal Employer Identification Number?

If you're just closing offices in certain states, but continuing to operate in other states, you don't need to do anything about your federal EIN. You may, however, need to file Form 8822-B with the IRS to report changes to your responsible individuals.

As for the states, each state has its own procedure. Most allow you to check a box to indicate this is your final return. You need to check whether a state will require you to file final W-2s within 30 days. New Jersey, which you mentioned, has such a requirement.

If you decide to reopen a business in a state, some states will just reactivate your old account number, while others will issue new ones.

Severance and vacation pay when closing a business.

Some employees will be receiving severance pay into 2022. Can severance pay be treated as supplemental wages? Also, which states require employees to be paid their accrued vacation pay?

Yes, severance pay is supplemental wages. You may withhold federal income taxes at the flat 22% rate (provided, of course, employees haven't received over $1 million in supplemental pay this year). You may continue to use the flat rate withholding method for severance paid next year.

But for severance paid in 2022 to employees who are let go this year, you'll need to use the aggregation method of withholding, because the flat rate method is limited to employees who receive regular wages during the current or preceding year. To use the aggregation method, use what would have been your regular pay period.

California, Illinois, Nebraska, and Rhode Island require you to pay employees their accrued vacation pay upon termination. All the other states allow employers to set their own vacation payout policies.

Reporting no SSN on a W-2.

We hired a short-term employee who didn't have a Social Security number, but her I-9 documents checked out. How do we report no SSN on her W-2?

Even though this employee has left your company, you should still try to get her SSN. You can call, email, or send a letter. Keep track of your solicitation efforts, just in case the IRS later questions you in an audit. You should explain that if her wages aren't reported under her SSN, the Social Security Administration won't be able to credit her wages to her account, which could result in a lower monthly benefit when she retires.

If you still don't have the SSN by the time you're ready to process your W-2s and you file on paper, write "Applied For" in Box A on all copies. If you're e-filing with the SSA, enter all zeros in Box A.

Working lunches from home — are Door Dash certificates taxable income?

My company often held working lunches. To facilitate working lunches while employees are working from home, we're paying for Door Dash certificates to be provided to employees to order their own lunch. What's the tax status of these vouchers?

There is no easy answer to this question. In general, vouchers or gift cards are considered taxable because they're cash equivalents.

On the other hand, meals can be provided tax-free to employees if they're provided for the convenience of the employer. Convenience of the employer means you have a substantial noncompensatory reason for providing meals. We're not sure if mirroring what goes on in the office at home would qualify as a substantial noncompensatory business reason.

You need to seek tax advice. And we suggest you get it soon because if the meals are taxable, you don't have a lot of time left this year to make up the taxes that should have been withheld.

Additional Resource: IRS provides official guidance on employee retention credit and PPP loans.