

Your 2021 payroll questions answered.



Although things are starting to calm just a little, the impacts of pandemic-related legislation, sudden moves to remote work, and more are still being felt. Now is when the flood of confusing legal questions arises as businesses start to try to return to normal (and perhaps realize that normal doesn't quite exist anymore).

Regardless, you can't put payroll on hold simply because things are confusing. Here we dig into a few pressing questions and look at how to deal with them.

COBRA tax credits

Our COBRA carrier has provided us with a report detailing the company's eligibility for the COBRA tax credit for the second quarter. Our third-party payroll provider, however, is resisting including the credit on our second-quarter 941, saying it's still waiting for more information from the IRS.

What should we do? The second-quarter form is due at the beginning of August and we aren't particularly enthusiastic about having to file Form 941-X later to claim the credit.

What you need to know

The COBRA credit isn't difficult to understand. Under the American Rescue Plan, you must subsidize 100% of qualified employees' COBRA coverage and you receive a payroll tax credit in that amount against your 1.45% share of Medicare taxes.

You should push back now and inquire what information your third-party provider feels it's lacking. The IRS released comprehensive [guidance](#) on this credit a short time ago. And the odds of it releasing any more guidance before the end of the month are remote.

One solution you may be able to suggest to your provider is that they implement a nontaxable earnings code with an offsetting deduction to track the amounts to be included on your second-quarter 941.

Remote work and payroll software

We now have remote workers in 45 states. We know we have to register as an employer in those states. Our payroll software requires us to set up a home location for each worker, but with 800+ workers, many in the same state, this will become burdensome. We're looking for a shortcut. Any ideas?

What you need to know

Instead of inputting each remote employee's home address, you could set up one remote office in a state—call it a Principal Place of Business, Remote, or Administrative Office—and have this office function as employees' work location.

This setup will function well for employees who don't live in states with local taxes. For employees whose wages are subject to local income tax withholding, like Pennsylvania, Ohio or even New York City, you will need to set up each home office separately in your payroll system.

The FFCRA and accrued sick leave

Do paid sick leave wages an employee receives under the Families First Coronavirus Response Act, as amended by ARP, reduce their accrued time under an employer's PTO plan, or are the hours and wages in addition to their accrued PTO time?

What you need to know

Good question, which, as far as we know, hasn't been asked before.

According to [FAQ 102](#) on the IRS' website, employers may receive tax credits for providing paid sick/family leave to an employee who is otherwise entitled to receive it under the employer's policy. There are a couple of provisos:

- The leave must be provided under the same conditions leave is provided under the FFCRA/ARP
- If you take the tax credit, you're not entitled to a tax deduction for the same wages.

Working in one state but living in another

We set up a new office location for an employee who will be working in Chicago. I just found out he lives in Wisconsin. We don't have a business presence in Wisconsin. Do we withhold for Illinois and Wisconsin, just Illinois or just Wisconsin?

What you need to know

Based on the facts in your question, you would withhold only for Illinois, since this is the employee's work location. The employee will be liable for Wisconsin taxes, since you're always liable for taxes in your home state, but technically, this isn't your problem.

It's likely Wisconsin will allow this employee to credit his Illinois taxes against his Wisconsin tax liability. Such

tax credits are common in contiguous states with lots of commuters.

You could extend courtesy withholding to this employee for his Wisconsin taxes, but to do so, you'd have to register with the Wisconsin taxing authority.