

IRS Posts Drafts of Form 941 Schedules B and R Instructions (03/01/2021)

Payroll Updates

## IRS Posts Drafts of Form 941 Schedules B and R Instructions

The IRS has posted a draft March 2021 version of the instructions for Schedule B (Form 941, Report of Tax Liability for Semiweekly Schedule Depositors) and Schedule R (Form 941, Allocation Schedule for Aggregate Form 941 Filers) on its website.

Schedule B. Employers file Schedule B if they are semiweekly depositors of federal employment taxes. A semiweekly depositor has more than \$50,000 of employment taxes in the lookback period or has accumulated a tax liability of \$100,000 or more on any given day in the current or prior calendar year. Schedule B is filed with an employer's Form 941 (Employer's Quarterly Federal Tax Return). In some situations, Schedule B may be filed with Form 941-X (Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund). Employers list their tax liability for each day on Schedule B, which is based on the dates wages were paid and includes the federal income tax withheld from the employees' pay, and both the employer and employee share of Social Security and Medicare taxes.

Deferrals of Social Security tax expired. The instructions note that the deferral of the deposit and payment of the employer share of Social Security tax for deposits and payments due on or after March 27, 2020, and before January 1, 2021, as well as the deferral of the withholding, deposit, and payment of the employee share of Social Security tax on wages paid September 1, 2020, through December 31, 2020, have expired. The employer deferral is part of the Coronavirus, Aid, Relief and Economic Security (CARES) Act (see Payroll Guide ¶120,900 et seq) and the employee deferral is from a Presidential Memorandum on August 8, 2020 related to COVID-19 relief. All references to these deferrals have been removed from the instructions.

New payroll tax credit. Section 303(d) of the Taxpayer Certainty and Disaster Tax Relief Act (TCDTRA) of 2020 allows for a new payroll tax credit for certain tax-exempt organizations affected by certain qualified disasters not related to COVID-19. This new credit will be claimed on new Form 5884-D (Employee Retention Credit for Certain Tax-Exempt Organizations Affected by Qualified Disasters) and may still be available to certain employers during the first and second quarters of 2021. If an employer will claim this credit on Form 5884-D for a calendar quarter of 2021, the employer must include the credit to be claimed

on Worksheet 1 in the instructions for Form 941 to correctly figure the credit for qualified sick and family leave wages and/or the employee retention credit, which are COVID-19 tax credits.

Schedule R. Agents approved by the IRS under Code Sec. 3504 and certified professional employer organizations (CPEOs) must complete Schedule R each time they file an aggregate Form 941. The form is due with the aggregate Form 941 each quarter. To request approval to act as an agent for an employer under Code Sec. 3504, the agent must file Form 2678 (Employer/Payer Appointment of Agent) with the IRS. Form 2678 must be previously filed and approved by the IRS before filing Schedule R. To become a CPEO, the organization must apply through the IRS Online Registration System.

Other third-party payers that file aggregate Forms 941, such as non-certified PEOs, must complete and file Schedule R if they have clients that are claiming the qualified small business payroll tax credit for increasing research activities or COVID-19 tax credits like the credit for qualified sick and family leave wages (columns f, k, and p) and the employee retention credit (columns l and q). Third-party payers other than agents approved by the IRS under Code Sec. 3504 and CPEOs need to include client-by-client amounts only for those clients claiming one or more of these credits. Amounts for clients not claiming any of these credits are included on Schedule R, page 1, line 8.

What's new. The Schedule R draft instructions say they were updated for changes made to Form 941 for the first quarter of 2021. The IRS released a draft version of Form 941 for 2021 in early February 2021. Mainly the difference between the 2021 draft and the current version of Form 941 reflect the fact that the deferrals of the employer share and the employee share of Social Security tax were not extended for the 2021 tax year. The IRS also posted an updated draft version of the Form 941 instructions for 2021 later in February 2021.

The Schedule R draft instructions note that they should be used with the June 2020 revision of Schedule R.