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Regulations: Rules for refundable employment tax credits (COVID-19)

The U.S. Treasury Department and IRS this afternoon released for publication in the Federal Register temporary regulations (T.D. 9904) and, by cross-reference, proposed regulations (REG-111879-20) as rules for reconciling advance payments of refundable employment tax credits, as provided under legislation enacted earlier in 2020 as relief in response to the coronavirus (COVID-19) pandemic.

The *Families First Coronavirus Response Act* and the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) include a mandate for regulations to address the reconciliation of advance refundable employment tax credits provided under these acts and the recapture of the benefit of the credits (when necessary).

Read the [temporary regulations](#) [PDF 269 KB] and the [proposed regulations](#) [PDF 277 KB]

These regulations were published in the Federal Register on July 29, 2020.

In general, provisions of the Families First Act provide that if the amount of the paid sick and family leave credits exceeds the taxes imposed by Code section 3111(a) or 3221(a) for any calendar quarter, that excess amount is to be treated as an overpayment that is to be refunded pursuant to the rules under sections 6402(a) and 6413(b).

A provision of the CARES Act provides that if the amount of the employee retention credit exceeds the taxes imposed by section 3111(a) or 3221(a) (limited to the portion attributable to the rate in effect under section 3111(a)) for any calendar quarter, that excess amount is treated as an overpayment that is to be refunded under sections 6402(a) and 6413(b).

Read a related IRS release: [IR-2020-169](#) (July 27, 2020)

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