

***Hawaii Society of CPAs:  
CARES Act,  
Families First Coronavirus  
Response Act (FFCRA), and  
Federal and Hawaii Tax Update***

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**Kurt Kawafuchi**

***Law Offices of Kurt Kawafuchi, LLC***

**1003 Bishop Street, Suite 475, Honolulu, Hawaii 96813**

**Tel.: (808) 688-8986**

**Email: [kkawafuchi@aol.com](mailto:kkawafuchi@aol.com)**

# ***IRS DEADLINES***

- Notice 2020-18
- Returns due on 4/15 extended to 7/15
  - Automatic extension until 7/15
    - Do not need to be sick or quarantined
  - Can file extension until 7/15
  - Can apply to taxpayers on extension until 4/15
- Applies to individual, trust, estate, partnership, association, company, or corporation

# **IRS DEADLINES**

- Notice 2020-18 (Cont'd)
  - Certain payments due on 4/15 extended to 7/15
  - No interest, penalty, addition to tax for failure to file or pay tax between 4/15/20 and 7/15/20
  - Includes 2019 and 2020 tax payments due on 4/15 including 2020 estimated tax and SE tax
  - Does not yet include 6/15 estimated tax
  - Does not apply to payroll and excise taxes
  - IR 2020-20 extended deadline until 7/15 to file and pay gift and GST taxes.

# ***IRS DEADLINES***

- Notice 2020-18 (Cont'd)
  - Extends 965(h) installment payments
  - Extends estimated tax payments for certain corporate payments under basis erosion, BEAT and anti-abuse tax
  - Need to re-schedule certain 4/15 payments
  - Does not extend deadline for information returns

# ***IRS DEADLINES***

- Notice 2020-18 (Cont'd)
  - Does not extend statute of limitations for refund claims, e.g., certain 2016 refund claims
  - May also extend certain IRS deadlines but caveat Hawaii Tax Department, e.g., certain IRAs, certain corporate pensions under IRC Section 404(a)(6), 10%, and Archer and MSA contributions. See IRS Q&A at
  - <https://www.irs.gov/newsroom/filing-and-payment-deadlines-questions-and-answers>

## ***SICK AND FAMILY LEAVE -***

- Families First Coronavirus Response Act (FFCRA) (3/18/20) and IR 2020-57
  - Small and midsize employers may claim two (2) new refundable payroll tax credits:
    - (1) Paid Sick Leave Credit
    - (2) Child Care Leave Credit
- Designed to immediately and fully reimburse certain employers, dollar-for-dollar, for the cost of providing Coronavirus-related leave to their employees.

## ***SICK AND FAMILY LEAVE -***

- Families First Coronavirus Response Act (FFCRA) (3/18/20) and IR 2020-57
- Small and midsize employers may claim two (2) new refundable payroll tax credits: (Cont'd)
- Available to businesses and tax-exempt organizations with < 500 employees that are required to provide emergency paid sick leave and emergency paid family and medical leave under the FFCRA, e.g., either for the employee's own health needs or to care for family members.

## ***SICK AND FAMILY LEAVE -***

- Families First Coronavirus Response Act (FFCRA) (3/18/20) and IR 2020-57
  - Workers are not forced to choose between their paychecks and the public health measures needed to combat the virus.
  - Eligible employers will be able to claim these credits based on qualifying leave they provide between 4/1/20 and 12/31/20.
  - Equivalent credits are available to self-employed individuals based on similar circumstances.



## ***SICK AND FAMILY LEAVE -***

- Families First Coronavirus Response Act (FFCRA) (3/18/20) and IR 2020-57
  - Employees can receive two weeks (up to 80 hours) of paid sick leave at 100% of the employee's pay where the employee is unable to work because the employee is quarantined, and/or experiencing COVID-19 symptoms, and seeking a medical diagnosis.
  - An employee who is unable to work because of a need to care for an individual subject to quarantine, to care for a child whose school is closed or child care provider is unavailable for reasons related to COVID-19, and/or the employee is experiencing substantially similar conditions as specified by the U.S. DHHS can receive two weeks (up to 80 hours) of paid sick leave at 2/3 the employee's pay.

## ***SICK AND FAMILY LEAVE -***

- Families First Coronavirus Response Act (FFCRA) (3/18/20) and IR 2020-57
  - An employee who is unable to work due to a need to care for a child whose school is closed, or child care provider is unavailable for reasons related to COVID-19, *may in some instances receive up to an additional ten weeks of expanded paid family and medical leave at 2/3 the employee's pay.*
- Employers receive 100% reimbursement for paid leave pursuant to the Act.
  - Health insurance costs are also included in the credit.
  - Employers face no payroll tax liability.
  - Self-employed individuals receive an equivalent credit.

## ***SICK AND FAMILY LEAVE -***

- Families First Coronavirus Response Act (FFCRA) (3/18/20) and IR 2020-57
  - Reimbursement will be quick and easy to obtain.
    - An immediate dollar-for-dollar tax offset against payroll taxes will be provided
    - Where a refund is owed, the IRS will send the refund as quickly as possible.
  - Employers with < 50 employees are eligible for an exemption from the requirements to provide leave to care for a child whose school is closed, or child care is unavailable in cases where the viability of the business is threatened.

## ***SICK AND FAMILY LEAVE -***

- Families First Coronavirus Response Act (FFCRA) (3/18/20) and IR 2020-57
  - Easing Compliance
    - Requirements subject to 30-day non-enforcement period for good faith compliance efforts.
  - To take immediate advantage of the paid leave credits, businesses can retain and access funds that they would otherwise pay to the IRS in payroll taxes.
  - If those amounts are not sufficient to cover the cost of paid leave, employers can seek an expedited advance from the IRS by submitting a streamlined claim form that will be released next week.

## ***SICK AND FAMILY LEAVE -***

- Families First Coronavirus Response Act (FFCRA) (3/18/20) and IR 2020-57
  - First Credit: Paid Sick Leave Credit
  - Caring for Another: Employee who cares for someone with Coronavirus, or is caring for a child because the child's school or child care facility is closed, or the child care provider is unavailable due to the Coronavirus, eligible employers may claim a credit for two-thirds of the employee's regular rate of pay, up to \$200 per day and \$2,000 in the aggregate, for up to 10 days.
  - Eligible employers are entitled to an additional tax credit based on costs to maintain health insurance coverage for the eligible employee.

## ***SICK AND FAMILY LEAVE -***

- Families First Coronavirus Response Act (FFCRA) (3/18/20) and IR 2020-57
- First Credit: Paid Sick Leave Credit
  - Employee Unable to Work: For an employee who is unable to work because of Coronavirus quarantine or self-quarantine or has Coronavirus symptoms and is seeking a medical diagnosis, eligible employers may receive a refundable sick leave credit for sick leave at the employee's regular rate of pay, up to \$511 per day and \$5,110 in the aggregate, for a total of 10 days.

## ***SICK AND FAMILY LEAVE -***

- Families First Coronavirus Response Act (FFCRA) (3/18/20) and IR 2020-57
  - Second Credit: Child Care Leave Credit
- For an employee who is unable to work because of a need to care for a child whose school or child care facility is closed or whose child care provider is unavailable due to the Coronavirus, eligible employers may receive a refundable child care leave credit.
- This credit is equal to two-thirds of the employee's regular pay, capped at \$200 per day or \$10,000 in the aggregate. Up to 10 weeks of qualifying leave can be counted towards the child care leave credit.
- May claim additional tax credit on costs to maintain health insurance coverage for the eligible employee during the leave period.



## ***SICK AND FAMILY LEAVE -***

- Families First Coronavirus Response Act (FFCRA) (3/18/20) and IR 2020-57
- Second Credit: Child Care Leave Credit (Cont'd)
  - Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.



## ***SICK AND FAMILY LEAVE -***

- Families First Coronavirus Response Act (FFCRA) (3/18/20) and IR 2020-57
  - Under guidance that will be released next week, eligible employers who pay qualifying sick or child care leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and child care leave that they paid, rather than deposit them with the IRS.
  - The payroll taxes that are available for retention include withheld federal income taxes, the employee share of Social Security and Medicare taxes, and the employer share of Social Security and Medicare taxes with respect to all employees.
  - Refundable credit and can file a request for an accelerated payment from the IRS. The IRS expects to process these requests in two weeks or less.

## ***EMPLOYER RETENTION CREDIT***

- Eligible employers (except certain small businesses that take small business loans) can claim the employee retention credit, a refundable tax credit equal to 50 percent of up to \$10,000 in qualified wages (including health plan expenses), paid after 3/12/20 and before 1/1/21.
- Eligible employers are those businesses with operations that have been partially or fully suspended due to governmental orders due to COVID-19, or businesses that have a significant decline in gross receipts compared to 2019.
- Significant Decline is where the employer's gross receipts are below 50% of the comparable quarter in 2019. Once the employer's gross receipts go above 80% of a comparable quarter in 2019, they no longer qualify after the end of that quarter.

## ***EMPLOYER RETENTION CREDIT***

- The refundable credit is capped at \$5,000 per employee (50% of \$10k) and applies against certain employment taxes on wages paid to all employees.
- Wages includes employers' share of health care
- Eligible employers can reduce federal employment tax deposits in anticipation of the credit.
- They can also request an advance of the employee retention credit for any amounts not covered by the reduction in deposits by submitting Form 7200 Advance Payment of Employer Credits Due to COVID-19.

## ***EMPLOYER RETENTION CREDIT***

- Qualifying wages are based on the average number of a business's employees in 2019.
- Employers *with less than 100* employees: If the employer had 100 or fewer employees on average in 2019, the credit is based on wages paid to all employees, *regardless if they worked or not. If the employees worked full time and were paid for full time work, the employer still receives the credit.*
- Employers with *more than 100* employees: If the employer had more than 100 employees on average in 2019, then the *credit is allowed only for wages paid to employees who did not work during the calendar quarter.*

# ***EMPLOYER RETENTION CREDIT***

- Resources include:
  - IR-2020-57, Treasury, IRS and Labor announce plan to implement coronavirus-related paid leave for workers and tax credits for small and midsize businesses to swiftly recover the cost of providing coronavirus-related leave
  - IR-2020-62, IRS: Employee Retention Credit available for many businesses financially impacted by COVID-19
  - <https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

## ***DELAY IN PAYMENT OF CERTAIN PAYROLL TAXES***

- The CARES Act allows to the postponement of the payment of the employer portion of Social Security and RRTA taxes, and allows self-employed individuals to postpone 50% of certain self-employment taxes through the end of 2020.
- The deferred tax liability would be paid in two installments: one due by Dec. 31, 2021, and the second by Dec. 31, 2022.
- Employers who received Small Business Act loans that are forgiven under the CARES Act sec. 1106 or sec. 1109 are not eligible for this payroll tax deferral. (Act Sec. 2302(a)(3))

## ***DELAY IN PAYMENT OF CERTAIN PAYROLL TAXES***

- Payroll tax deferral period. The “payroll tax deferral period” is the period beginning on Mar. 27, 2020 and ending before Jan. 1, 2021.
- If an employer directs a third party, such as a professional employer organization (PEO) to defer the employer’s matching portion of FICA, the employer remains liable for the payment of the taxes.



## ***IRS' PEOPLE FIRST INITIATIVE: IR 2020-59***

- Commissioner Rettig: “We (IRS) are adjusting our processes to help people and businesses during these uncertain times. We are facing this together, and we want to be part of the solution to improve the lives of all people in our country.”
- New changes include:
  - Postponing certain payments related to Installment Agreements and Offers in Compromise to collection
  - Limiting certain enforcement actions.
  - Start date 4/1 and will initially run through 7/15.
  - To the maximum extent possible, the IRS will avoid in-person contacts.
  - However, the IRS will continue to protect all applicable statutes of limitations.
- Clarifications in SBSE Memo 3/30/20



## ***IRS' PEOPLE FIRST INITIATIVE: IR 2020-59***

- **Installment Agreements: For Existing Installment Agreement:**
  - Payments suspended from 4/1 to 7/15
  - No defaults.
  - Interest continues to accrue.
- **New Installment Agreements – The IRS reminds people unable to fully pay their federal taxes that they can resolve outstanding liabilities by entering into a monthly payment agreement with the IRS. See IRS.gov for further information, e.g., search for “installment agreements.”**

## ***IRS' PEOPLE FIRST INITIATIVE: IR 2020-59***

- Offers in Compromise (OIC) – The IRS assisting taxpayers in various stages of the OIC process:
  - Pending OIC applications – Allow taxpayers until July 15 to provide requested additional information to support a pending OIC.
  - Will not close any pending OIC request before July 15, 2020, without the taxpayer's consent.
  - OIC Payments – Taxpayers have the option of suspending all payments on accepted OICs until July 15, 2020, although by law interest will continue to accrue on any unpaid balances.
  - Delinquent Return Filings - The IRS will not default an OIC for those taxpayers who are delinquent in filing their tax return for tax year 2018.
  - However, taxpayers should file *any delinquent 2018 return* (and their 2019 return) *on or before July 15, 2020.*

## ***IRS' PEOPLE FIRST INITIATIVE: IR 2020-59***

- Offers in Compromise (OIC) – The IRS assisting taxpayers in various stages of the OIC process:
- New OIC Applications – The IRS reminds people facing a liability exceeding their net worth that the OIC process is designed to resolve outstanding tax liabilities by providing a "Fresh Start." Further information is available at [IRS.gov](https://www.irs.gov) and search "offer in compromise".

## ***IRS' PEOPLE FIRST INITIATIVE: IR 2020-59***

- Non-Filers –
  - The IRS reminds people who have not filed their return for tax years *before* 2019 that they should file their delinquent returns.
  - More than 1 million households that haven't filed tax returns during the last three years are actually owed refunds
  - They still have time to claim these refunds, e.g., 2016 generally expires on 4/15/20
  - Once delinquent returns have been filed, taxpayers with a tax liability should consider taking the opportunity to resolve any outstanding liabilities by entering into an Installment Agreement or an Offer in Compromise with the IRS to obtain a "Fresh Start." See IRS.gov for further information.

## ***IRS' PEOPLE FIRST INITIATIVE: IR 2020-59***

- Field Collection Activities - Liens and levies (including seizures of a personal residence) initiated by field revenue officers will be suspended.
- Field revenue officers will continue to pursue high-income non-filers and perform other similar activities where warranted. IR 2020-34 (generally >\$100k)
- Automated Liens and Levies – New automatic, systemic liens and levies will be suspended during this period.
- Private Debt Collection – New delinquent accounts will not be forwarded private collection agencies.

## ***IRS' PEOPLE FIRST INITIATIVE: IR 2020-59***

- Passport Certifications to the State Department –
  - IRS will suspend new certifications to the Department of State for taxpayers who are "seriously delinquent" during this period. These taxpayers are encouraged to submit a request for an Installment Agreement or, if applicable, an OIC during this period. Certification prevents taxpayers from receiving or renewing passports.

## ***IRS' PEOPLE FIRST INITIATIVE: IR 2020-59***

- Field, Office and Correspondence Audits –
  - Will generally not start new field, office and correspondence examinations.
  - Will continue to work refund claims where possible, without in-person contact.
  - However, the IRS may start new examinations where deemed necessary to protect the government's interest in preserving the applicable statute of limitations.
- In-Person Meetings - In-person meetings regarding current examinations will be suspended. Will continue their examinations remotely, where possible. Taxpayers are encouraged to respond to any requests for information they already have received - or may receive - on all examination activity during this period if they are able to do so.

## ***IRS' PEOPLE FIRST INITIATIVE: IR 2020-59***

- Unique Situations - Particularly for some corporate and business taxpayers, the IRS understands that there may be instances where the taxpayers desire to begin an examination while people and records are available and respective staffs have capacity. In those instances when it's in the best interest of both parties and appropriate personnel are available, the IRS may initiate activities to move forward with an examination -- understanding that COVID-19 developments could later reduce activities for an agreed period.
- General Requests for Information - In addition to compliance activities and examinations, the IRS encourages taxpayers to respond to any other IRS correspondence requesting additional information during this time if possible.



## ***IRS' PEOPLE FIRST INITIATIVE: IR 2020-59***

- Earned Income Tax Credit and Wage Verification Reviews – Taxpayers have ***until July 15, 2020***, to respond to the IRS to verify that they qualify for the Earned Income Tax Credit or to verify their income. These taxpayers are encouraged to exercise their best efforts to obtain and submit all requested information, and if unable to do so, please reach out to the IRS indicating the reason such information is not available. Until July 15, 2020, the IRS will not deny these credits for a failure to provide requested information.

## ***IRS' PEOPLE FIRST INITIATIVE: IR 2020-59***

- Independent Office of Appeals –
  - Appeals employees will continue to work their cases.
  - Although Appeals is not currently holding in-person conferences with taxpayers, conferences may be held over the telephone or by videoconference.
  - Taxpayers are encouraged to promptly respond to any outstanding requests for information for all cases in the Independent Office of Appeals.

## ***IRS' PEOPLE FIRST INITIATIVE: IR 2020-59***

- Statute of Limitations –
  - The IRS will continue to take steps where necessary to protect all applicable statutes of limitations.
  - In instances where statute expirations might be jeopardized during this period, taxpayers are encouraged to cooperate in extending such statutes. Otherwise, the IRS will issue Notices of Deficiency and pursue other similar actions to protect the interests of the government in preserving such statutes.
  - Where a statutory period is not set to expire during 2020, the IRS is unlikely to pursue the foregoing actions until at least July 15, 2020.

## ***IRS' PEOPLE FIRST INITIATIVE: IR 2020-59***

- Practitioner Priority Service – Practitioners are reminded that, depending on staffing levels and allocations going forward, there may be more significant wait times for the PPS. The IRS will continue to monitor this as situations develop.
- See IRS Memo dated 3/30/20 for further information: Frederick Shindler, Director, Headquarters Collections, SBSE.

***HSCPA: CARES Act, Families First  
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***The End!***

**KURT KAWAFUCHI**  
***Law Offices of Kurt Kawafuchi, LLC***  
Phone: (808) 688-8986  
kkawafuchi@aol.com