

Failure to Deposit Penalty

Cross References

- www.irs.gov

The IRS is aware that a small population of employers that reduced their tax deposits in anticipation of claiming the sick and family leave credits, or employee retention credit, may have received a notice stating there was a failure to deposit penalty applicable to the Form 941 on which the credits were claimed. Under Notice 2020-22, employers claiming the new tax credits may reduce their deposits throughout the tax period up to the amount of the credit. However, in reporting the schedule of liabilities on Form 941, the reported liabilities did not match the reduction in deposits for every pay date. In these situations, they incurred a failure to deposit penalty on the difference in the reported liabilities and the reduced deposits (in situations where deposits were reduced by the amount of the anticipated credit(s) in excess of liability for the employer portion of social security for a given pay date).

Although the IRS has taken steps to implement rules that prevent the failure to deposit penalty from incurring on employers reducing their deposits in anticipation of these credits, the IRS has become aware some employers may still have inadvertently received notice of the penalty. The IRS is taking actions to identify these employer accounts and correct them as soon as possible. Employers that have recently received these notices do not need to take additional actions at this time.