

EMPLOYEE BENEFIT ALERT



JULY 14, 2021

COBRA SUBSIDY – UPDATED FORM 941

Form 941, the employer's quarterly federal tax return, has been updated to allow employers to claim a credit for any COBRA subsidies provided to assistance eligible individuals in accordance with §9501 of the American Rescue Plan Act of 2021 (ARP).

Employers who offer group health plan coverage subject to federal COBRA (i.e., most employers with 20 or more employees) and have assistance eligible individuals who elect to take advantage of the COBRA subsidy during the months of April – September 2021 may be able to claim a credit against the Medicare portion of their payroll taxes. The credit is available to cover COBRA premiums not paid by assistance eligible individuals so long as the employer had not already promised to subsidize the COBRA premiums (e.g., as part of a severance package). The credit will generally be claimed using Form 941, Lines 11e, 11f and 13f along with Workset 5. Credits may be claimed on returns for the second, third or fourth quarter of 2021. Some employers may be able to claim an advance payment using Form 7200. See Form 7200 and its associated instructions for more information.

Employers will need to report the dollar amount of the COBRA subsidies as well as a count of the number of individuals who were provided the COBRA subsidy. The instructions indicate employers should "count each

assistance eligible individual that received assistance as one individual, whether or not the COBRA coverage was for insurance that covered more than one assistance eligible individual. For example, if the coverage was for a former employee, spouse, and two children, you would count one individual." For employers who use COBRA administrators, the administrators may be able to produce a report to assist employers in claiming the credit.

The updated Form 941 and corresponding instructions can be found at <https://www.irs.gov/forms-pubs/about-form-941>

Detailed information about the COBRA subsidy can be found in IRS Notice 2021-31: <https://www.irs.gov/pub/irs-drop/n-21-31.pdf>. Specific guidance for calculating and claiming the COBRA premium assistance credit can be found beginning with Q&A #63.

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