

LEGAL UPDATE

President Trump Orders Payroll Tax Deferment

On Aug. 8, 2020, President Donald J. Trump [ordered](#) the U.S. Department of Treasury (the Department) to defer collecting certain payroll taxes from Sept. 1 to Dec. 31, 2020. Because the order is for a deferral, the unpaid taxes will need to be recouped at a later time, unless the Department can find an avenue to eliminate the obligation to pay the taxes.

Eligibility for Deferred Payroll Taxes

Under the order, employers will be able to defer taxes that help pay for Social Security and Medicare for individuals who receive less than \$4,000 during any bi-weekly pay period (the equivalent of \$104,000 per year) on a pre-tax basis.

Affected taxes will be deferred without any penalties, interest, additional amount or addition to the tax. The White House's position is that deferring this tax will alleviate the hardship of individuals affected by the economic consequences of the COVID-19 pandemic.

Implementation Obstacles

Government agencies hold employers and payroll providers responsible for withholding an adequate amount of payroll taxes from their employees' wages and compensation.

At this time, it is still unclear whether employers will opt to release the affected payroll taxes to eligible employees for two reasons:

1. Implementing changes in payroll processes and procedures is not always a quick or easy process—an obstacle aggravated by the fact that the Department has a scarce few weeks to issue guidance to implement this presidential directive; and
2. There is a possibility that the deferred taxes will need to be collected at a future date.

Next Steps for Employers

Agency Guidance

Employers should actively monitor upcoming guidance from the Department of Treasury.

Risk Assessment

Employers should balance the benefit of releasing affected taxes to eligible employees against the possibility of having to recoup those taxes later.

Review Payroll Processes

Employers should take time to evaluate now how quickly they can alter their payroll practices and procedures in case they decide to opt for this payroll tax deferral.

The Department of Treasury will stop collecting certain payroll taxes between Sept. 1 and Dec. 31, 2020.

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