



Late Friday afternoon the IRS released guidance ([Notice 2020-65](#)) concerning the August 8th executive order deferring payroll taxes for certain employees.

The guidance allows employers to **"defer"** withholding certain payroll taxes on employee's wages from September 1st through December 31st. The payroll tax that can be deferred is the Social Security portion of an employees paycheck. This equates to 6.2% of the wages.

The deferral only applies to those employees who's compensation is less than \$4,000 on a biweekly basis. Each pay period stands on its own. If one pay period is \$4,000 you cannot defer, but if the next pay period is \$3,500 you can defer.

I highlighted the word defer earlier because this tax will have to be collected and paid in the first 4 months of 2021.

For the employee, they will enjoy a small bump in take home pay during the last 4 months of this year, but will see their pay reduced in the first four months of 2021 to recoup the funds. This in effect is a short term loan that has to be repaid.

For employers, there are a lot of unanswered questions missing from the guidance. One of the biggest questions would be what happens if you defer the payroll taxes for an employee through the last 4 months, and then that employee is no longer there in 2021. Is the employer responsible for repaying the funds? Everything that I am reading so far places the burden of collecting and remitting the tax on the employer.

There has been talk that the administration would try and get the amount forgiven in 2021, but as of right now it is a deferral and has to be repaid.

What is not clear to me at this point is whether or not this is an optional program. If this is an optional program, my recommendation would be to not participate. The tax deferral potentially places a burden on both the employer and employee and there are still too many unanswered questions.

You will want to discuss this with your payroll provider. If you are enrolled in our payroll program, we will be communicating with you over the next couple of days about the program and your options. Please be patient as guidance was just released and there are a lot of technical and legal issues that have to be worked out.

Please let me know if you have any questions.

Thank you!

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