

September 2020

Legal Update: Payroll Tax Deferment Order

Under the Presidential [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. The deferment period is between Sept. 1 and Dec. 31, 2020.

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 of the Treasury has a scarce number of 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.