

Payroll Tax Deferral Order

By: Lewis A. Chabot, CPA | Tax Manager

Background

On August 8, 2020, President Trump issued four executive orders in an effort to provide additional economic relief in response to the COVID-19 emergency, which includes a deferral of payroll taxes from September 1, 2020 through December 31, 2020. The remaining three executive orders addressed enhanced unemployment payments, eviction moratoriums, and relief for student loans.

Payroll Tax Background

The term "Payroll Tax" as impacted by this executive order refers solely to the 6.2% Old Age, Survivors and Disability Insurance (OASDI) tax. The OASDI tax applies to wages paid up to the annual Social Security wage base, which is \$137,700 for 2020. Please note that the second component of the Federal Insurance Contributions Act (FICA) tax, 1.45% Medicare Tax, is not addressed in this executive order.

Payroll Tax Deferral

Under the terms of the President's executive order, withholding, deposit, and payment of the employee's share of the 6.2% OASDI tax under Code Section 3101(a), are deferred on wages paid during the period beginning September 1, 2020 and ending December 31, 2020. These amounts are to be deferred without risk of penalty or interest and the Department of the Treasury has been ordered to issue guidance implementing the deferral. The deferral of the employee's share of OASDI tax only applies to employees with bi-weekly, pre-tax income of less than \$4,000 or a similar amount where a different pay period applies. This roughly equates to an annual salary of \$104,000.



Implementation Issues

The Department of the Treasury has been ordered to issue guidance on the deferral which will be essential for employers to determine if the order is mandatory, what the process will be for eventually paying back the deferred taxes or even which employees and what forms of compensation are eligible. Given these uncertainties and without implementing guidance from the Department of the Treasury, it is not clear at this time, what action is required from an employer.

Conclusion

Because of the numerous questions that remain unanswered with this executive order, employers should proceed with extreme caution with its interpretation of its responsibilities until implementation guidance is provided by the Department of the Treasury.

DISCLAIMER: Depending on future guidance from the Department of the Treasury, information presented above is subject to change.