



GMS Flash Alert

2020-382 | September 1, 2020



United States – New IRS Guidance on Deferral of Payroll Taxes

The U.S. Department of the Treasury and the Internal Revenue Service (IRS) late on Friday, August 28, 2020, released highly-anticipated guidance¹ implementing the payroll tax deferral directed by U.S. President Donald Trump in a recent presidential memorandum.² This new guidance provides employers with the option to defer withholding the employee portion of social security tax payments from September 1, 2020 through December 31, 2020, with the deferred payroll taxes to be repaid from January 1, 2021, through April 30, 2021.

For a comprehensive KPMG report on this development see *TaxNewsFlash-KPMG Report*, "[Initial analysis of Notice 2020-65, guidance on employee payroll tax deferral](#)," a publication of KPMG LLP (U.S.).

WHY THIS MATTERS

This new guidance addresses several of the issues raised by the president's August 8 memorandum. The guidance makes clear that the payroll tax deferral is optional and provides a timeframe for when deferred taxes must be repaid.

Background

Payroll taxes generally include old-age, survivor, and disability insurance ("OASDI") and hospital insurance (commonly referred to as "Social Security" and "Medicare" separately or collectively as Federal Insurance Contributions Act ("FICA") taxes). These payroll taxes apply at a rate of 15.3 percent for wages up to \$137,700 for the 2020 calendar year, with the obligation for these taxes equally divided between employers and employees at 7.65 percent (6.2 percent for Social Security and 1.45 percent for Medicare). Above \$137,700, the payroll tax obligation is limited to Medicare.

There is an additional 0.9-percent Medicare tax applicable to the employee's wages that exceed \$200,000 in a calendar year.

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Although the ultimate tax obligation is shared between employers and employees, employers have the responsibility for withholding the employee's share from wages and depositing such amounts.

On August 8, 2020, U.S. President Donald Trump issued a memorandum directing the Treasury Secretary to defer the collection of the employee portion of OASDI (but does not affect the employee portion of Medicare), though the details on implementing this deferral were left to the Treasury. (For prior coverage, see GMS [Flash Alert 2020-352](#), August 11, 2020.)

Notice 2020-65

Notice 2020-65 responds to the direction in the president's memorandum. The notice allows – but does not require – an employer to defer the withholding and payment of the employee share of social security tax on wages paid during the period of September 1, 2020, through December 31, 2020, for employees earning below a threshold amount: \$4,000 per bi-weekly pay period or the equivalent amount with respect to other pay periods.

Notice 2020-65 provides that an employer that defers must withhold and pay the deferred taxes ratably from wages paid during the period from January 1, 2021, through April 30, 2021. Therefore, employees benefiting from the deferral may have additional payroll taxes withheld during that four-month period in 2021. If the applicable taxes are not fully repaid by April 30, 2021, interest and penalties and additions to tax will accrue to the employer starting on May 1, 2021. However, the employer may make alternative arrangements to collect the taxes from the employee if necessary.

FOOTNOTES:

1 IRS Notice 2020-65, at: <https://www.irs.gov/pub/irs-drop/n-20-65.pdf>.

2 Presidential Memorandum, "Memorandum on Deferring Payroll Tax Obligations in Light of the Ongoing COVID-19 Disaster" at: <https://www.whitehouse.gov/presidential-actions/memorandum-deferring-payroll-tax-obligations-light-ongoing-covid-19-disaster/>. See GMS [Flash Alert 2020-352](#) (August 11, 2020) for prior coverage.

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The above information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230 as the content of this document is issued for general informational purposes only.

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