

Guidance Issued on Presidential Memo Deferring Withholding & Payment of Social Security Tax

Clients & Friends -

Many of you have asked us about the recent Presidential Memorandum regarding the deferral and payment of the employee portion of social security tax. On Friday, the IRS and Treasury Dept. issued guidance relating to the Memorandum.

In a nutshell, the guidance puts the responsibility on employers for ultimately paying back the levies, and that could cause many to decline putting the extra money in workers' paychecks. The guidance also contains problems for employees if their employers choose to participate: They'll have smaller paychecks next year when they have payroll taxes taken out of their paychecks twice. President Trump's intent is to forgive the taxes that are deferred. However, this would be dependent on his re-election and cooperation from and action by Congress.

Here are some highlights from IRS Notice 2020-65:

- Affected Taxpayers are **employers** who are required to withhold social security from employees.
- Applicable Wages are those paid to an employee on a pay date from September 1, 2020 to December 31, 2020.
- Applicable Wages are those that are less than compensation of \$4,000 bi-weekly (or equivalent for other pay frequencies). This is the equivalent of a \$104,000 annual salary, and will mean many employees will be eligible to defer.
- Determination of Applicable Wages is on a pay period-by-pay period basis. An employee may qualify one pay period but not another.
- The Applicable Taxes (taxes that were deferred) must be withheld from wages and repaid from Jan 1, 2021 to April 30, 2021.
- It is the responsibility of the employer to repay. If necessary, the Affected Taxpayer (employer) may make arrangements to otherwise collect the Applicable Taxes from the employee. **Please note: It appears that if the employee leaves, the employer will still be responsible for the liability!**

Treasury Secretary Mnuchin says he "can't force" companies to defer the withholdings and the US Chamber of Commerce said noted that many companies won't implement the deferral, because of difficulties administering it and the greater burden for employees next year.

If you have questions about the deferral, please reach out to your Jackson Thornton advisor.