



# WAYS AND MEANS

REPUBLICANS | KEVIN BRADY, REPUBLICAN LEADER

## **How It Works: President Trump's Payroll Tax Deferral Executive Order** **September 3, 2020**

On August 8, President Trump signed an Executive Order, *Deferring Payroll Tax Obligations in Light of the Ongoing COVID-19 Disaster*, which deferred the employee portion of Social Security payroll taxes for certain individuals. On August 28, Treasury Department released guidance providing additional detail for the implementation of this Executive Order.

### **Does the Executive Order (EO) hurt Social Security?**

- The EO does not affect Social Security's Trust Funds, as the taxes are only deferred.
- The guidance notes interest, penalties, and additions to tax will begin to accrue if amounts are not paid by May 1, 2021.

### **Will these changes to the payroll tax cause Social Security to run out of money in just a few years?**

- No. The EO does not affect Social Security's Trust Funds, as the taxes are only deferred.
- The Social Security Chief Actuary has confirmed that no one has proposed legislation to zero-out Social Security payroll taxes, and that past payroll tax holidays enacted by President Obama provided General Fund transfers to offset effects on Social Security's trust funds.
- Unfortunately, Democrats have attempted to politicize the Chief Actuary by writing a letter asking for analysis of unrelated, hypothetical legislation simply to scare seniors and propagate a false narrative. [A letter](#) from the Senate Finance Committee and House Ways and Means Committee set the record straight.

### **What payroll taxes are able to be deferred?**

- The EO applies to the employee portion of Social Security payroll taxes (6.2%). Medicare payroll taxes and the employer portion of Social Security payroll taxes are not included in the EO.

### **Does the deferral apply to the parallel Social Security taxes owed by the self-employed?**

- No, additional guidance would be required in order to apply the deferral to self-employment taxes.

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### **Who is eligible for payroll tax deferral?**

- Employers may defer the employee portion of Social Security payroll taxes for any employee whose wages (as defined for Social Security purposes) are less than \$4,000 for a biweekly period.

### **When does the deferral apply?**

- The employee portion of Social Security payroll taxes may be deferred for certain employees for wages paid from September 1, 2020, to December 31, 2020.

### **Is an employer required to defer payment of employee portion of payroll taxes?**

- The EO provides temporary relief for employers from the obligation to withhold and pay the employee portion of Social Security payroll taxes for certain employees.
- The EO does not mandate deferral, nor does it outline any penalty as a result of not participating in the deferral.
- The EO does not provide a right for employees to demand that an employer participate in the deferral.

### **What if wages are paid on a different frequency than biweekly?**

- If a pay period is a different length, such as twice a month, instead of biweekly, the \$4,000 amount must be adjusted. The EO states the threshold is an “equivalent amount with respect to other pay periods.”

### **What if wages vary between pay periods?**

- Whether an employee’s wages are eligible is determined separately for each pay period.
- For a biweekly pay period in which an employee earns \$4,000 or more, no amount of the wages in that pay period will be eligible for the benefit

### **When are the deferred taxes due?**

- An employer must withhold and pay the total applicable taxes deferred in 2020 from wages and compensation paid from January 1, 2021, to April 30, 2021. If an employer is unable to do so, then the employer may make arrangements to otherwise collect the deferred taxes from the employee.
- Interest, penalties, and additions to tax will begin to accrue on May 1, 2021, with respect to any unpaid taxes.

### **Will the deferred taxes need to be paid back in one lump sum?**

- No, employers have the flexibility over the first four months of 2021 to withhold in installments and remit on a prorated basis the Social Security payroll taxes that were deferred during the last four months of 2020.