



# COVID-19: Presidential Order Deferring Individual Payroll Taxes

August 24, 2020

On August 8, 2020, President Trump issued a [presidential memorandum](#) ordering the [deferral of individual payroll tax obligations](#) from September 1, 2020, through December 31, 2020. The deferral is for employees with biweekly compensation of generally less than \$4,000. The memorandum directs the Secretary of the Treasury to issue guidance to implement this policy.

This Insight discusses the individual payroll tax deferral outlined in the memorandum, compares this order to the business payroll tax deferral provided in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, P.L. 116-136), and addresses questions related to the effect of the deferral on the Social Security trust funds.

## What individual payroll taxes are affected by the order?

The presidential memorandum orders deferred collection and payments of the employee portion of the Old Age, Survivors, and Disability Insurance (OASDI) payroll tax, also known as the Social Security payroll tax. The [Social Security trust funds](#) are financed by a 12.4% payroll tax on wages up to the taxable earnings base ([\\$137,700 in 2020](#)). The tax is split equally between employers and employees, with each paying 6.2%. Self-employed individuals pay both the employer and the employee share, or 12.4%. The deferral is applicable to employees with less than \$4,000 in wages during the biweekly pay period (or equivalent amounts with respect to other pay periods). The deferral applies to the railroad retirement tax attributable to the individual Social Security tax. The memorandum does not specify whether the deferral applies to self-employed individuals.

## How does the order affect payroll tax collections?

Employers collect the employee portion of the tax by deducting the tax from wages when wages are paid. Employers typically [deposit payroll taxes](#) with the Internal Revenue Service (IRS) semiweekly or monthly, and report employment taxes paid on [quarterly federal tax returns](#) filed no later than 30 days after the end of the calendar quarter. Some employers with small payrolls may file annually. [Decisions](#)

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IN11488

about withholding of employee payroll tax amounts, and thus decisions regarding participation in deferral, are made by the employer.

Employee payroll taxes are deferred, not forgiven, by the presidential order. Deferring employee payroll taxes could result in the total deferred liability being due after December 31, 2020. Having the total deferred liability due as a lump-sum payment could be burdensome for taxpayers, which may lead employers to choose to continue to withhold and remit payroll taxes. This has led to discussion of stretching out repayment within the Administration. Stakeholders assert it would be unworkable to implement a system where employees choose whether or not their employer defers their share of OASDI payroll taxes from September 1, 2020, through the end of the year. Employers have also expressed concerns about administrative costs associated with implementing the deferral and concerns about being liable for the deferred tax liability of employees who have changed jobs.

The presidential memorandum does not specify how deferred payroll taxes would be collected. The memorandum orders the Secretary of the Treasury to explore avenues to eliminate the obligation to pay deferred taxes, including legislation. Permanent forgiveness would require congressional action. The Secretary of the Treasury is also directed to issue guidance to implement the memorandum, which could provide additional information regarding payment of deferred amounts.

## How does the individual deferral compare to the CARES Act deferral for businesses?

The CARES Act contained a delay in payment of employer payroll taxes (as opposed to the employee's share of payroll taxes). Specifically, the CARES Act deferred employer OASDI payroll taxes due between March 27, 2020, and December 31, 2020. Deferred tax liability is to be paid in two installments—with half of the deferred amount to be paid on or before December 31, 2021, and the remainder due on or before December 31, 2022. For businesses, the payroll tax deferral was intended to free up cash flow. The payroll tax deferral is similar to an interest-free loan, which businesses will presumably repay once normal business operations resume.

The CARES Act provides general revenue transfers to the Social Security trust funds in the event that the employer payroll tax deferral results in a loss of revenue. The presidential memorandum does not address how the employee payroll tax deferral might affect the Social Security trust funds, or specifically include any hold-harmless provision.

## Is the individual deferral likely to provide economic stimulus?

There are likely limited economic effects from changing the timing of when individual OASDI payroll taxes are paid. Delaying payroll tax liability for several months does not provide working individuals with additional economic resources in the longer term; nor does it change the incentives to work, save, or invest. Employees employed by employers choosing to defer payroll taxes could see increased take-home pay in the near term. Payroll tax deferrals do not provide additional resources to nonworking or unemployed individuals. Forgiveness of deferred payroll tax liability could provide additional fiscal stimulus.

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