

### Guidance Issued on Payroll Tax Holiday—Here's What We Know

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On August 8, 2020, President Trump issued a Presidential Memorandum directing the Treasury Secretary to use his authority to implement a “payroll tax holiday.” The memo asked the Secretary to postpone an employer’s obligation to withhold the employee portion of the Social Security tax until January 1, 2021.

On August 28, 2020, the Treasury Secretary issued anticipated guidance on this memo, however much remains unclear. Here’s what we do *and do not* know:

We do know that the memo and guidance defers the employee portion of the social security tax beginning September 1, 2020 until December 31, 2020. This applies to individuals earning \$4,000 or less on a bi-weekly basis. The President has expressed his desire that the deferral be forgiven after the deferral period, but this is not guaranteed. If there is no forgiveness the employer, *not the employee*, will be responsible for withholding and remitting payment of the deferred taxes starting January 1, 2021. The guidance does not specify how an employer should later withhold and remit the deferred taxes. It only states that employers “may make arrangements to otherwise collect the total applicable taxes from the employee.” This could imply double withholding come January 1, 2021, or a similar collection mechanism.

Another lingering question is whether this program is voluntary or whether employers are required to implement this deferral. At this stage, we believe this program is *optional* for employers. However, additional guidance is expected.

Contact Bodman PLC for specific information regarding how your business can implement this program, what the risks are if you do not, and practical guidance related to your options. Bodman cannot respond to your questions or receive information from you without first clearing potential conflicts with other clients. Thank you for your patience and understanding.

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