

On Saturday, August 8, 2020, the President issued an executive memorandum regarding a payroll tax delay. The Treasury issued Notice 2020-65 with clarifications in late August.

See <https://www.irs.gov/pub/irs-drop/n-20-65.pdf>).

The memorandum provides an opportunity (not a requirement) for employers to defer withholding their employees' portion of FICA taxes between 09/01/2020 and 12/31/2020. However, if an employer decides to participate in the program, the employees will be required to repay the deferred taxes between 01/01/2021 and 04/30/2021.

So, while the employees' regular net pay will increase during the deferral period, regular net pay will be reduced during the repayment period.

And, more importantly, the Notice indicates that ***an employer*** who implements the deferral (and thus pays wages without withholding the 6.2% employee portion of Social Security tax) ***remains liable for those deferred taxes even if those amounts cannot be recouped from the employee.*** For example, if an employee's taxes were deferred, and that employee left the organization, then the employer is still required to repay the taxes, even though those amounts will likely not be recouped.

For this reason, Simploy does not recommend that any employer participate in this program.

If, however, an employer decides to participate, Simploy will continue to charge the employer for the employee portion of FICA taxes, accrue those amounts during the deferral period, then credit the employer when/if the employees repay the taxes during the repayment period.

If you have any questions regarding this matter, please direct them to Jay King on 314-373-0030 or at jking@simplo.com.