



Update on the President's Executive Memorandum on Deferring Payroll Taxes

A COVID-19 Update from Questco – August 24th, 2020

As you know, on August 8, the President issued an Executive Memorandum allowing employees who make less than \$104,000 a year to defer their payroll taxes starting September 1 through the end of 2020. We want to update you on what we know as of today.

Questco – along with the rest of the business community - is awaiting guidance from the Treasury Department to implement this memorandum. We know that the Secretary of the Treasury, Steve Mnuchin, has stated that participation will be voluntary – meaning an employer can choose not to allow their employees to take advantage of this deferral. In addition, the President's top economic advisor, Larry Kudlow, stated that the President is looking for ways to “fully forgive” the payroll tax deferral. But nothing has been issued in writing from any US Government entity.

A common theme throughout the business community in response to this memorandum is the concern that employers will ultimately be responsible for the repayment of the payroll tax deferral. Federal tax law and IRS regulations make it clear that the employer is liable for unpaid payroll taxes. Letters have been sent to the IRS from the National Association of PEO's, the American Institute of Certified Public Accountants, the National Payroll Reporting Consortium (NPRC) and the US Chamber of Commerce stating that the employee who takes the deferral must ultimately be responsible for the deferred payroll tax payments. Last Thursday, the NPRC released a second statement to Treasury outlining their concerns with the deferral memorandum and – in an election year – this proposal is getting political pushback. On Friday, August 21, 142 House Democrats sent a letter to the President demanding he reverse his “recent executive action on Social Security payroll taxes and abandon your call to defund Social Security by eliminating the payroll tax permanently.”

With one week left before the memorandum goes into effect, we are all waiting for Treasury to issue guidance on how the payroll tax deferral will work. Questco will of course let you know as soon as that happens. Until then, there is no further action required.

Please reach out to your Client Success Manager should you have any questions.

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