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# MEMORANDUM

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Date: September 4, 2020

To: The Honorable Chair and Members  
Pima County Board of Supervisors

From: C. H. Huckelberry  
County Administrator

A handwritten signature in black ink, appearing to be "CHH", is written over the printed name "C. H. Huckelberry".

**Re: Presidential Memorandum on Deferring Employee Social Security Payroll Taxes**

On August 28, 2020, the U.S. Treasury Department and the Internal Revenue Service issued Notice 2020-65 (Treasury Notice) providing guidance for the implementation of the Presidential Memorandum issued on August 8, 2020, which allows employers the option to defer withholding and payment of Social Security tax for employees whose wages are below \$4,000 per pay period, for wages paid September 1 through December 31, 2020. See Attachment 1 for the Presidential Memorandum and Attachment 2 for the Treasury Notice 2020-65.

To implement this Payroll Tax Deferral option, Pima County would:

- Need to direct ADP to reprogram our existing payroll system to accommodate this temporary deferral of payroll tax. ADP has communicated to us that they are awaiting further clarification from the IRS or Treasury Department so they are not certain how long it would take to develop, test, and update our production environment.
- Remain liable to collect from employees and pay to the IRS after December 31, 2020, the full amount of the employee's Social Security taxes deferred.
- Be required to withhold the total taxes deferred for an employee from the employee's wages for the four-month period from January 1 through April 30, 2021.
- Need to make arrangements to otherwise collect the total taxes due from the employee, if an employee is not employed with the County for the full four-month period as the County would still be obligated to pay the total deferred taxes to the IRS.
- Pay any interest, penalties and additions to tax, if applicable, that accrue beginning on May 1, 2021.

Given all these factors, Pima County has elected not to implement the payroll tax deferral option. I do not believe this option is in the best interest of our employees or Pima County taxpayers.

## Attachments

c: Jan Leshar, Chief Deputy County Administrator  
Michelle Campagne, Director, Finance and Risk Management

# ATTACHMENT 1



## PRESIDENTIAL MEMORANDA

# Memorandum on Deferring Payroll Tax Obligations in Light of the Ongoing COVID-19 Disaster

— BUDGET &amp; SPENDING

Issued on: August 8, 2020



MEMORANDUM FOR THE SECRETARY OF THE TREASURY

SUBJECT: Deferring Payroll Tax Obligations in Light  
of the Ongoing COVID-19 Disaster

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. The 2019 novel coronavirus (COVID-19) that originated in the People's Republic of China has caused significant, sudden, and unexpected disruptions to the American economy. On March 13, 2020, I determined that the COVID-19 pandemic is of sufficient severity and magnitude to warrant an emergency declaration under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207, and that is still the case today. American workers have been particularly hard hit by this ongoing disaster. While the Department of the Treasury has already undertaken historic efforts to alleviate the hardships of our citizens, it is clear that further temporary relief is necessary to support working Americans during these challenging times. To that end, today I am directing the Secretary of the Treasury to use his authority to defer certain payroll tax obligations with respect to the American workers most in need. This modest, targeted action will put money directly in the pockets of American workers and generate additional incentives for work and employment, right when the money is needed most.

Sec. 2. Deferring Certain Payroll Tax Obligations. The Secretary of the Treasury is hereby directed to use his authority pursuant to 26 U.S.C. 7508A to defer the withholding, deposit, and payment of the tax imposed by 26 U.S.C. 3101(a), and so much of the tax imposed by 26 U.S.C. 3201 as is attributable to the rate in effect under 26 U.S.C. 3101(a), on wages or compensation, as applicable, paid during the period of September 1, 2020, through December 31, 2020, subject to the following conditions:

(a) The deferral shall be made available with respect to any employee the amount of whose wages or compensation, as applicable, payable during any bi-weekly pay period generally is less than \$4,000, calculated on a pre-tax basis, or the equivalent amount with respect to other pay periods.

(b) Amounts deferred pursuant to the implementation of this memorandum shall be deferred without any penalties, interest, additional amount, or addition to the tax.

Sec. 3. Authorizing Guidance. The Secretary of the Treasury shall issue guidance to implement this memorandum.

Sec. 4. Tax Forgiveness. The Secretary of the Treasury shall explore avenues, including legislation, to eliminate the obligation to pay the taxes deferred pursuant to the implementation of this memorandum.

Sec. 5. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) You are authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP

# ATTACHMENT 2

Part III - Administrative, Procedural, and Miscellaneous

Relief with Respect to Employment Tax Deadlines Applicable to Employers Affected by the Ongoing Coronavirus (COVID-19) Disease 2019 Pandemic

Notice 2020-65

On August 8, 2020, the President of the United States issued a Presidential Memorandum directing the Secretary of the Treasury (Secretary) to use his authority pursuant to section 7508A of the Internal Revenue Code (Code) to defer the withholding, deposit, and payment of certain payroll tax obligations.<sup>1</sup> Accordingly, the Secretary has determined that employers that are required to withhold and pay the employee share of social security tax under section 3102(a) or the railroad retirement tax equivalent under section 3202(a) are affected by the COVID-19 emergency for purposes of the relief described in the Presidential Memorandum and this notice (Affected Taxpayers). For Affected Taxpayers, the due date for the withholding and payment<sup>2</sup> of the tax imposed by section 3101(a), and so much of the tax imposed by

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<sup>1</sup> The Presidential Memorandum is available at <https://www.federalregister.gov/d/2020-17899>.

<sup>2</sup> The deposit obligation for employee social security tax does not arise until the tax is withheld. Accordingly, by postponing the time for withholding the employee social security tax, the deposit obligation is delayed by operation of the regulations. Thus, this notice does not separately postpone the deposit obligation.

section 3201 as is attributable to the rate in effect under section 3101(a), on Applicable Wages, as defined herein, (collectively Applicable Taxes) is postponed until the period beginning on January 1, 2021, and ending on April 30, 2021.

### **Applicable Wages**

For purposes of this notice, Applicable Wages means wages as defined in section 3121(a) or compensation as defined in section 3231(e)<sup>3</sup> paid to an employee on a pay date during the period beginning on September 1, 2020, and ending on December 31, 2020, but only if the amount of such wages or compensation paid for a bi-weekly pay period is less than the threshold amount of \$4,000, or the equivalent threshold amount with respect to other pay periods. The determination of Applicable Wages is made on a pay period-by-pay period basis. If the amount of wages or compensation payable to an employee for a pay period is less than the corresponding pay period threshold amount, then that amount is considered Applicable Wages for the pay period, and the relief provided in this notice applies to those wages or that compensation paid to that employee for that pay period, irrespective of the amount of wages or compensation paid to the employee for other pay periods.

### **Payment of Deferred Applicable Taxes**

An Affected Taxpayer must withhold and pay the total Applicable Taxes that the Affected Taxpayer deferred under this notice ratably from wages and compensation

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<sup>3</sup> Because Applicable Wages are defined as wages as defined in section 3121(a) and compensation as defined in section 3231(e), any amounts excluded from wages or compensation under these sections are not included when determining Applicable Wages.

paid between January 1, 2021 and April 30, 2021 or interest, penalties, and additions to tax will begin to accrue on May 1, 2021, with respect to any unpaid Applicable Taxes. If necessary, the Affected Taxpayer may make arrangements to otherwise collect the total Applicable Taxes from the employee.

### **Drafting Information**

The principal authors of this notice are attorneys of the Office of Associate Chief Counsel, Employee Plans, Exempt Organizations, and Employment Taxes, with the participation of staff from other offices. For further information regarding the guidance under this notice, please call the Notice 2020-65 Hotline at (202) 317-5436 (not a toll-free number).