



Payroll Tax Deferral Tip Sheet

The IRS has released [guidance](#) on how the President's August 8, 2020, payroll tax deferral [memorandum](#) will be implemented. This tip sheet gives a basic overview of what we think small business owners should know, based on what we have learned so far.

What payroll taxes may be deferred?

Employers may, but are not required to, defer the withholding, deposit, and payment of certain payroll taxes on wages paid from September 1 through December 31 of 2020. Employers can defer the 6.8% employee portion of the Old Age, Survivors, and Disability Insurance part of FICA taxes (and the equivalent amount under the Railroad Retirement Tax Act).

The payroll taxes are deferred, not forgiven – this is essentially a loan, and the deferral will need to be paid back.

The deferral is available for employees who have less than \$4,000 in compensation in a given biweekly payroll period during the deferral period, or an equivalent amount for other payroll periods. Note that an employee with variable pay, such as from commissions or tips, could be eligible for a deferral in one payroll period but not in others.

Are employers required to defer payroll taxes?

Employers are not required to defer payroll taxes. The IRS and Treasury have indicated that the payroll tax deferral is permissive, and employers may continue to withhold and deposit payroll taxes as normal.



How are deferred payroll taxes paid?

Deferred payroll taxes must be repaid from January 1, 2021 to April 30, 2021 on a ratable basis. Employers may also be able to make other arrangements to repay the deferred payroll taxes if necessary. If not fully repaid by April 30, 2021, interest, penalties, and additions to tax will begin to accrue on May 1.

****Note**** The employer is on the hook for the deferred payroll taxes, even if the employer is unable to withhold the deferred taxes from future income (e.g. due to employee termination).

Dated September 15, 2020