

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

CAROLINE L. HARRIS
VICE PRESIDENT, TAX POLICY
& ECONOMIC DEVELOPMENT
CHIEF TAX POLICY COUNSEL
TAX POLICY DIVISION

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202-463-5406

August 12, 2020

The Honorable Steven Mnuchin
Secretary of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

RE: Implementation of the Executive Order Deferring Payroll Tax Obligations in Light of the Ongoing COVID-19 Disaster

Dear Mr. Secretary,

The U.S. Chamber of Commerce appreciates the Treasury Department's work in response to the COVID-19 pandemic, particularly the quick promulgation of guidance to ensure relief is quickly distributed to American businesses, families, and workers. While the recently issued Executive Order (EO) on payroll tax deferral is well-intended to provide relief, it has raised serious concerns for both employers and employees.

This EO gives rise to significant questions about implementation. The Chamber appreciates recent reports that this EO will be optional but needs additional clarification about who elects this application. Further, there is uncertainty as to who is ultimately liable for the repayment of the deferred taxes, and when the repayment will be due and what mechanism will be used to collect that repayment.

As taxpayers delve further into this EO, questions arise about how to apply this in other situations, such as where employees have fluctuating salaries or receive bonuses; where employees are employed for a short term, such as with seasonal holiday workers; and where employees leave employment prior to the end of the deferral period. The uncertainty raised by these issues, as well as myriad other issues not enumerated here, only exacerbates the challenges faced by payroll processors and compliance departments who are already struggling to implement this EO in an extremely short period of time.

Not only is the payroll EO surrounded by uncertainty as to its application and implementation, it creates a substantial tax liability for employees at the end of the deferral period. As current law provides, this is a deferral of tax due, and without Congressional action to forgive the payroll tax, it threatens to impose serious hardships on employees who will face a large tax bill at the end of the deferral period.

The Chamber appreciates the continuing work of the Administration and the Treasury Department to implement and provide relief during the COVID-19 crisis. As Americans continue to work to navigate the COVID-19 crisis, the Chamber urges the Treasury Department to consider these and other issues in issuing guidance to implement the payroll EO. Thank you for your time and attention.

Sincerely,

A handwritten signature in black ink, appearing to read 'Caroline L. Harris', with a stylized flourish at the end.

Caroline L. Harris

cc: David J. Kautter, Assistant Secretary, Office of Tax Policy, U.S. Department of the Treasury

Michael Desmond, Chief Counsel, Office of the Chief Counsel, Internal Revenue Service