

United States Senate

WASHINGTON, DC 20510

September 8, 2020

The Honorable Steven T. Mnuchin
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable Russell T. Vought
Office of Management and Budget
725 17th Street NW
Washington, DC 20503

Dear Secretary Mnuchin and Director Vought,

We urge you to let federal workers and uniformed service members choose whether to defer their payroll tax obligations under IRS Notice 2020-65, rather than forcing them to participate.¹ Federal workers and service members should not be used as pawns for a payroll tax scheme that many private sector employers are unlikely to join and where key questions remain unanswered.²

While some federal employees may want to defer their payroll tax payments, unions representing federal workers have made clear that many others do not.³ IRS Notice 2020-65 does not answer many key questions, but KPMG concludes that it “appears” to give employers the option to, “Permit deferrals only at the employee’s election.”⁴ PwC states that employers may want to provide this option to their workers, noting that, “The reduced take-home pay in early 2021 as a result of the additional withholding for the deferred Social Security tax may make some employees not want to participate in the deferral, even if their employer opts in.”⁵

Federal employees and service members lack basic information about how agencies will implement the payroll tax deferral. In addition to clarifying whether federal employees will be forced to participate, please answer the following questions:

1. If an employee or service member separates from their job prior to repaying deferred payroll taxes in their 2021 withholdings, will their employing agency or the IRS seek to collect unpaid payroll taxes from that employee? If so, how will they do so?

¹ IRS Notice 2020-65. Available at <https://www.irs.gov/pub/irs-drop/n-20-65.pdf>.

² Tony Romm and Eric Yoder. “Federal workers will have taxes deferred under Trump’s order, sparking outcry they’re being treated as a ‘guinea pig.’” *Washington Post*. September 2, 2020. Available at https://www.washingtonpost.com/us-policy/2020/08/31/payroll-tax-trump-federal-employee/?hpid=hp_hp-more-top-stories_fed-taxes-410p%3Ahomepage%2Fstory-ans.

³ AFGE. “President Trump’s Payroll Tax Deferral is Scam That Will Leave Workers with Substantial Tax Bill Next Year, AFGE President Says.” August 31, 2020. Available at <https://www.afge.org/publication/president-trumps-payroll-tax-deferral-is-scam-that-will-leave-workers-with-substantial-tax-bill-next-year-afge-president-says/>; NTEU. “NTEU Statement on Payroll Tax Deferral.” September 1, 2020. Available at <https://www.nteu.org/media-center/news-releases/2020/09/02/payroll-tax-statement>; IFPTE. “IFPTE Urges Congress to Block ‘Irresponsible’ Federal Employee Payroll Tax Deferral.” September 1, 2020. Available at <http://www.ifpte.org/news/details/IFPTE-Urges-Congress-to-Block-Irresponsible-Federal-Employee-Payroll-Tax-Deferral>.

⁴ KPMG. “KPMG report: Initial analysis of Notice 2020-65, guidance on employee payroll tax deferral.” August 31, 2020. Available at <https://home.kpmg/us/en/home/insights/2020/08/tmf-kpmg-report-initial-analysis-of-notice-2020-65-guidance-on-employee-payroll-tax-deferral.html>.

⁵ PwC. “Treasury issues limited employer guidance on optional deferral of employee Social Security taxes.” August 31, 2020. Available at <https://www.pwc.com/us/en/tax-services/publications/insights/assets/pwc-employer-guidance-on-deferral-of-employee-social-security-taxes.pdf>.

2. Please provide us with a cost estimate for federal agencies to pay the employee payroll taxes that they are unable to withhold or otherwise recoup as a result of the deferral.
3. How will federal agencies communicate key information about the payroll tax deferral to their workers, particularly regarding the reduction in take-home pay in 2021? As KPMG stresses, “It is important to manage employee expectations and keep employees informed of their obligations prior to making the election to defer.”⁶

Reports indicate that federal employee paychecks may be affected by the payroll tax deferral on or around September 18.⁷ Please respond to these questions as soon as possible so that federal workers and service members have some clarity on these issues before their paychecks are changed.

Sincerely,



United States Senator

/s/ Susan M. Collins

United States Senator

/s/ Tim Kaine

United States Senator

/s/ Sherrod Brown

United States Senator

/s/ Tammy Baldwin

United States Senator

/s/ Elizabeth Warren

United States Senator

/s/ Jeffrey A. Merkley

United States Senator

/s/ Benjamin L. Cardin

United States Senator

/s/ Richard J. Durbin

United States Senator

/s/ Sheldon Whitehouse

United States Senator

/s/ Richard Blumenthal

United States Senator

/s/ Bernard Sanders

United States Senator

⁶ KPMG. “KPMG report: Initial analysis of Notice 2020-65, guidance on employee payroll tax deferral.”

⁷ Romm and Yoder. “Federal workers will have taxes deferred under Trump’s order, sparking outcry they’re being treated as a ‘guinea pig’.”

/s/ Ron Wyden
United States Senator

/s/ Angus S. King Jr.
United States Senator

/s/ Thomas R. Carper
United States Senator

/s/ Patty Murray
United States Senator

/s/ Mazie K. Hirono
United States Senator

/s/ Tammy Duckworth
United States Senator

/s/ Jack Reed
United States Senator

/s/ Mark R. Warner
United States Senator

/s/ Charles E. Schumer
United States Senator

/s/ Kyrsten Sinema
United States Senator

/s/ Amy Klobuchar
United States Senator