

Congress of the United States
Washington, DC 20515

September 8, 2020

The Honorable Steven T. Mnuchin
Secretary of the Treasury
U.S. Department of Treasury
1500 Pennsylvania Ave., NW
Washington, D.C. 20220

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

The Honorable Michael J. Rigas
Acting Director
Office of Personnel Management
1900 E Street, N.W.
Washington, D.C. 20405

Dear Secretary Mnuchin, Director Vought, and Acting Director Rigas:

We are writing you about the Administration’s decision to implement a mandatory payroll tax deferral for our nation’s 1.3 million federal employees, starting with the next pay period in September. We are deeply concerned by reports that there will be “no option” for workers to opt out of this deferral¹. We urge the Administration to immediately reverse course and pursue an **opt-in** system that will allow federal employees to freely choose whether or not to have their payroll taxes deferred. At the very least, there must be an explicit opportunity to **opt-out** of this presidential offer.

In the weeks since President Trump’s August 8th memorandum on deferring employees’ payroll taxes, employers, employees, and payroll processors have scrambled to make sense of the president’s directive. Many employers and stakeholders have warned that the president’s payroll tax deferral would hit workers with an unanticipated and sizable tax bill in 2021. Dozens of industry groups predicted that most private sector employers will likely decline implementing this deferral and continue withholding payroll taxes as required by law². Other groups have specifically requested guidance clearly establishing that employees must opt in to defer payroll taxes³. When Treasury finally issued further guidance on this matter—hastily releasing it late Friday afternoon—it was only two and a half pages long and failed to provide guidance on many administrative uncertainties and headaches, including whether and how employees will be able to **opt-in** to or **opt-out** of the President’s unusual plan.

¹ <https://www.washingtonpost.com/us-policy/2020/08/31/payroll-tax-trump-federal-employee/>

² <https://www.uschamber.com/letters-congress/coalition-letter-the-executive-order-deferring-payroll-tax-obligations>

³ <https://www.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/20200812-aicpa-comment-letter-pres-memo-payroll-tax-deferral.pdf>

Few private sector employers are expected to take up the president’s payroll tax deferral offer. In the face of this policy’s broadly unenthusiastic reception by employers and employees alike, the Administration has acted unilaterally to **force** federal agencies to defer employees’ payroll taxes, starting with the next pay period. This decision would make the U.S. federal government the first and only large employer to implement a **mandatory** payroll tax deferral for employees.

The Administration has insisted that it is “implementing the deferral to give our employees relief as quickly as possible⁴.” If the policy truly intends to provide federal employees relief, then employees should have a free choice whether to seek this “relief.” We have already heard concerns voiced by numerous constituents who do not want their payroll taxes deferred only to have their paychecks substantially reduced at the end of the deferral period. Organizations representing federal employees have noted that many employees may be unprepared or unable to meet the higher tax obligation in 2021. Employees who are unable to repay tax obligations would face penalties and interest on deferred payroll taxes.

One of the largest payroll processors for the private sector has already started making changes to its system so employers that decide to implement the tax deferral can offer employees a **choice** of whether to participate⁵. **Let us extend this choice to our dedicated federal employees.** We stand ready to work with our federal agencies’ payroll processors at the U.S. General Services Administration, Department of Defense, Department of Agriculture, Department of Interior, and all other departments to implement similar changes to their systems.

Thank you for your prompt attention to this important issue, and we look forward to your response. We are here to help you work through this problem in any way you see fit.

Very truly yours,

/s/
Jamie Raskin
Member of Congress

/s/
Eleanor Holmes Norton
Member of Congress

/s/
David Trone
Member of Congress

/s/
John P. Sarbanes
Member of Congress

/s/
C.A. Dutch Ruppersberger
Member of Congress

/s/
Gerald E. Connolly
Member of Congress

⁴ <https://www.washingtonpost.com/us-policy/2020/08/31/payroll-tax-trump-federal-employee/>

⁵ <https://www.wsj.com/articles/trump-payroll-tax-deferral-leaves-employers-wary-as-plan-starts-11598958000>

_____/s/_____
Donald S. Beyer Jr.
Member of Congress

_____/s/_____
Steny H. Hoyer
Member of Congress

_____/s/_____
Jennifer Wexton
Member of Congress

_____/s/_____
Kweisi Mfume
Member of Congress

_____/s/_____
Anthony G. Brown
Member of Congress