

# Legislative Update

*Executive Memorandum, Unemployment Benefits,  
Economic Stimulus & VA Workplace Standards*

September 1, 2020

# Executive Memorandum:

## *Employee Social Security Tax Deferral*

- President Trump issued an executive memorandum on August 8th creating a “payroll tax holiday” on certain wages paid between September 1, 2020 through December 31, 2020.
- The IRS issued guidance to clarify this order on August 28th.



# Executive Memorandum:

## *Employee Social Security Tax Deferral*

- What payroll taxes may be deferred?
  - The 6.2% employee portion of social security taxes may be deferred.
  - The taxes are deferred, not forgiven!



# Executive Memorandum:

## *Employee Social Security Tax Deferral*

- Are employers required to defer these taxes?
  - Deferral appears to be optional for employers.
  - Employees are not listed as “Affected Taxpayers” and thus do not have the ability to choose whether their taxes are deferred or not.
  - Employers may decide to grant the option to defer or not defer to employees.





# Executive Memorandum:

## *Employee Social Security Tax Deferral*

- What wages are eligible?
  - Applicable wages are Social Security and Medicare wages/compensation less than \$4,000 in a given bi-weekly payroll period or an equivalent amount for other payroll periods between September 1st and December 31st.
  - Employees with variable wages (as may occur from commissions, bonuses, overtimes, etc.) could be eligible for deferral in one pay period but not the next.



# Executive Memorandum:

## *Employee Social Security Tax Deferral*

- How and when are the deferred taxes paid?
  - The due date for employers to remit the deferred taxes is postponed until the period beginning January 1, 2021 and ending April 30, 2021.
  - Employers must withhold and pay any deferred payroll taxes ratably from employee wages and compensation paid from January 1, 2021 through April 30, 2021.
  - Interest, penalties, and additions to the taxes will begin to accrue on May 1, 2021 with respect to any unpaid taxes.



# Executive Memorandum:

## *Employee Social Security Tax Deferral*

**Part 3:** Tell us about your business. If a question does NOT apply to your business, leave it blank.

17	If your business has closed or you stopped paying wages . . . . .	<input type="checkbox"/> Check here, and enter the final date you paid wages <input type="text"/> / <input type="text"/> / <input type="text"/> ; also attach a statement to your return. See instructions.
18	If you're a seasonal employer and you don't have to file a return for every quarter of the year . . . .	<input type="checkbox"/> Check here.
19	Qualified health plan expenses allocable to qualified sick leave wages . . . . .	19 <input type="text"/>
20	Qualified health plan expenses allocable to qualified family leave wages . . . . .	20 <input type="text"/>
21	Qualified wages for the employee retention credit . . . . .	21 <input type="text"/>
22	Qualified health plan expenses allocable to wages reported on line 21 . . . . .	22 <input type="text"/>
23	Credit from Form 5884-C, line 11, for this quarter . . . . .	23 <input type="text"/>
24	Deferred amount of the employee share of social security tax included on line 13b . . . . .	24 <input type="text"/>
25	Reserved for future use . . . . .	25 <input type="text"/>



# Executive Memorandum:

## *Employee Social Security Tax Deferral*

- Questions remain, but the employer is ultimately responsible for deferred taxes.
  - It remains unclear what happens if an employee who has deferred these taxes is terminated or quits before repaying the deferred sum.
  - Similarly, what about seasonal employees who do not have wages from which to withhold the deferred amount between January 1, 2021 and April 30, 2021?
  - What happens if the employer goes out of business?



# Executive Memorandum:

## *Employee Social Security Tax Deferral*

- Dominion Payroll is carefully considering the following items in developing our approach to this executive memo & guidance:
  - Determining the wage threshold on a pay period by pay period basis;
  - Social security as a self-correcting tax and the implications of turning that function off;
  - Ability for clients to turn on/off deferral flags on an employee basis;
  - Accumulation of the deferred tax & the mechanism to withhold that tax in a different calendar year;
  - Impact on 941;
  - Impact on W2;
  - Master Tax and PTM file feed requirements;
  - Reporting considerations by employee/client, exception reporting needs;





# Executive Order:

## *Extended Unemployment Benefits*

- Unemployed workers may be getting an extra \$300 or \$400 a week in benefits through a new “lost wages” grant program.
- States must apply, and be approved for, the financial assistance.
- About half of states had been approved for the unemployment benefits as of 8/24/2020.

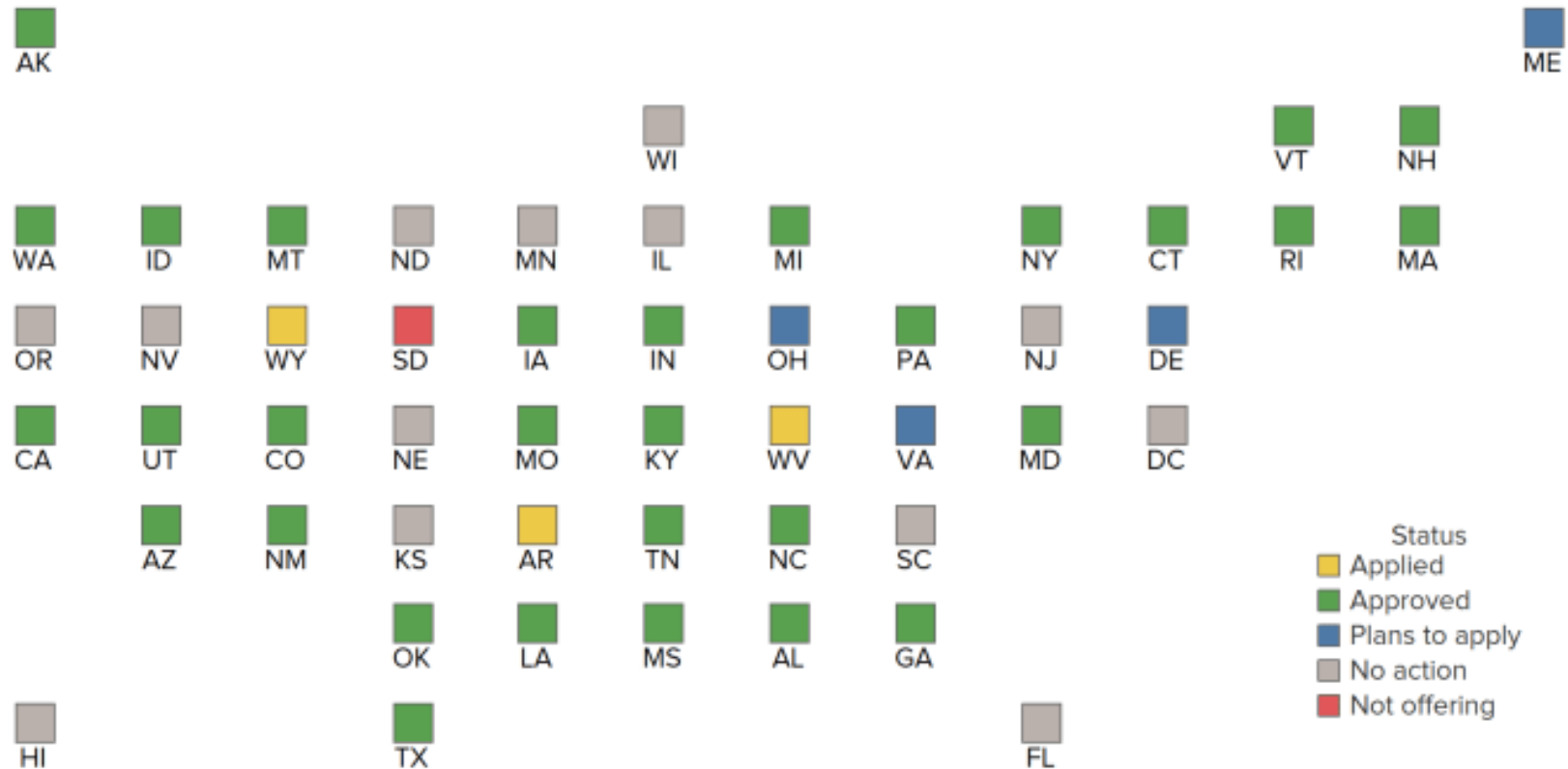


# Executive Order:

## *Extended Unemployment Benefits*

### Status of extra unemployment benefits

States must apply with the federal government to offer an extra \$300 or \$400 a week in unemployment benefits. Here's where things stand.



# Executive Order:

## *Extended Unemployment Benefits*

- States approved for aid are guaranteed just three weeks of funding, with payments backdated to the week ended Aug. 1. However, they may get more aid, depending on how many states apply and how quickly the money is drawn down.
- Not all unemployed workers are eligible for the payments. Those currently getting less than \$100 a week in unemployment benefits won't receive the assistance.



# Economic Stimulus & Coronavirus Relief

- Congress is back in session Tuesday, September 8th.
- A second round of stimulus checks, extended unemployment benefits, and a continuation of the PPP program are all on the table, but Republicans and Democrats remain at odds.
- If there is going to be another round of legislation, we will likely see movement in Congress next week with an effort to pass something the 3rd week of September.
- Deadline for Congress to pass a federal budget is October 1st.





# Virginia Workplace Standards

- The Virginia Department of Labor & Industry is soliciting public comment on their intent to adopt a permanent standard for infectious disease prevention.
  - Review the proposed permanent standard here:  
<https://www.doli.virginia.gov/wp-content/uploads/2020/07/Proposed-Permanent-Standard-for-Infectious-Disease-Prevention-for-COVID-19-7.24.2020.pdf>
  - Public commentary here:  
<https://townhall.virginia.gov/L/comments.cfm?GeneralNoticeid=1137>





We are answering your questions live on the air right now.

Please submit questions through the **Q&A function**,  
*not the chat option* at the bottom of your screen.



# *Questions?*

Please email:

[questions@dominionpayroll.com](mailto:questions@dominionpayroll.com)

For resources, updates, webinar schedule, and FAQ's, please visit our

[COVID-19 Updates & Resources page](#)



As requirements change and laws are passed, we will update you as soon as possible.

*Don't forget to wash your hands!*

