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President Trump's Aug. 8 Tax Executive Orders

Impact on Taxpayers and COVID-19 Negotiations

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Executive Order Overview

- On Saturday, Aug. 8, 2020, President Donald Trump signed four Executive Orders (EO) to defer payroll taxes; set up an assistance program for lost wages to supplement unemployment benefits; extend the federal moratorium on evictions; and defer student loan payments.
  - **Payroll Tax Deferral.** The EO calls on the secretary of the Treasury to defer the withholding, deposit and payment of payroll taxes from Sept. 1, 2020, through Dec. 31, 2020.
  - **Assistance Program for Lost Wages.** The EO provides that the federal government will set up a federal assistance program for lost wages to supplement unemployment benefits. The federal government would provide a $300 payment per week, with states covering an additional $100 payment, for a total of $400 for eligible claimants.
  - **Eviction Moratorium Extension.** The EO extends a federal moratorium on evictions for renters living in homes with federally backed mortgages through Aug. 31, 2020. The eviction moratorium expired two weeks ago.
  - **Student Loan Assistance.** The EO pauses monthly payments and interest for student loan borrowers until Dec. 31, 2020. Student loan payment relief granted under the CARES Act expires on Sept. 30, weeks before the November elections. In a speech earlier today, the president promised to further extend payment relief after Dec. 1, 2020.
- The slides that follow focus on the first two EOs related to payroll tax deferral and the assistance program for lost wages.
- These slides will be updated periodically. Updates are summarized on Slide 3 and are in red in the deck.

Updates: August 28

- **Payroll Taxes**
  - Update on guidance issued by the Treasury Department and the IRS—Notice 2020-65
  - Updated Slides: 5-7, 9-14

- **Unemployment**
  - Update on state implementation of Lost Wage Assistance (LWA) Program.
  - Summarizes Aug. 17 Department of Labor Guidance, which answers key questions from states regarding implementation.
  - Updated Slides: 19, 21-23

- **Negotiations**
  - Updates the states of play with respect to negotiations, including the House's upcoming vote on U.S. Postal Service funding and Republicans' expected "skinny" package.
  - Updated Slides: 29

Payroll Tax Deferral

How Will It Work and What Choices Will Taxpayers Have?

Payroll Tax Deferral – Overview of the EO

- The EO calls on the secretary of the Treasury to defer the withholding, deposit and payment of the employee portion of the 6.2% Old Age, Survivors, and Disability Insurance (OASDI) segment of Federal Insurance Contributions Act (FICA) taxes imposed by I.R.C. § 3101(a)—often referred to as Social Security taxes.
- The deferral does **not** apply to the employer or employee portion of Medicare taxes (1.45% each) or the employee share of Additional Medicare taxes (0.9% for employee's earning over $200,000). The Additional Medicare tax only applies to employees, not to employers.
- In order to qualify, an employee's compensation during a bi-weekly pay period must be less than $4,000, calculated on a pre-tax basis—this is about $104,000 annually.
- The deferral applies to taxes on wages paid from Sept. 1, 2020, through Dec. 31, 2020.
- The EO seems to apply to self-employed individuals, but it is unclear as to how the deferral would be implemented for these individuals.
- In remarks accompanying the release of the EOs, the president said he hopes to make the deferral retroactive to July 1, 2020. Notice 2020-65, released by the Treasury Department and the Internal Revenue Service on Aug. 28 indicates that the program is effective only on Sept. 1.
- The president also said he hopes to further extend the payroll tax deferral. The EO directs the secretary of the Treasury to explore avenues, including legislation, to eliminate the obligation to repay the deferred taxes.

Payroll Tax Deferral – Overview of Notice 2020-65

- On Aug. 28, the Treasury Department and the Internal Revenue Service issued Notice 2020-65, which contains guidance to implement the Aug. 8 EO.

- The guidance allows employers to defer the withholding, deposit, and payment of the employee's portion of the Social Security tax, if the employee's wages are below the $4,000 threshold during a bi-weekly pay period. Each bi-weekly pay period is considered separately. This means that the employer may defer the taxes during one bi-weekly pay period, but does not need to do so for the next bi-weekly pay period, if wages are not below the $4,000 threshold.

- The employer must withhold and pay the total applicable taxes that were deferred pursuant to this Notice ratably from wages and compensation paid between Jan. 1, 2021 and April 30, 2021. Additions to tax will begin to accrue May 1, 2021, with respect to any unpaid taxes.

- Employers are able to make alternative arrangements to collect the taxes from the employee as well. As a result, employers, for example, may withhold from a departing employee's last paycheck.

- No contact information was provided in the Notice, as is customary. Instead, it notes that the principal authors of this Notice are attorneys of the Office of Associate Chief Counsel, Employee Plans, Exempt Organizations, and Employment Taxes, with the participation of staff from other offices. The following hotline number is also provided: 202-317-5436.

Impact

What is the value of the deferral and who benefits?

- Payroll taxes consist of: (1) Old Age, Survivors, and Disability Insurance (OASDI), i.e., Social Security tax: 6.2% for the employer and 6.2% for the employee, or 12.4% total; and (2) Medicare and Additional Medicare taxes: 1.45% for the employer and 1.45% for the employee, or 2.9% total. The Additional Medicare tax is 0.9% for those employees earning over $200,000. Social Security taxes have a wage base limit of $137,700. The wage base limit is adjusted annually for cost-of-living. This EO only provides for the deferral of the 6.2% employee Social Security tax.

- The CARES Act already deferred payroll taxes for businesses/employers from March 27, 2020, through Dec. 31, 2020.

- The EO is very limited in scope—it calls for the ***voluntary*** deferral of payroll taxes for a four-month period for workers earning less than $4,000 during a biweekly pay period—about $104,000 annually. As a result of wage base limit, many high-income earners have already fulfilled the bulk of their payroll tax obligation for 2020.

- The maximum value of the deferral of Social Security taxes in the EO is about $2,232 for someone earning just under the wage cap of $104,000.

- According to the Bureau of Labor Statistics, median weekly earnings for full-time wage and salary workers was $1,002 in July, which is about $52,100 annually. The average worker would be able to defer about $1,076 between September and the end of the year. This is about $62 extra per week or about $124 reflected in each biweekly paycheck.

- While this might feel like a tax cut to many Americans, it is only a tax deferral, which means the taxes will need to be paid back between Jan. 1, 2021 and April 30, 2021. President Trump continues to urge Congress to extend the deferral and to forgive the taxes.

Impact

What is the impact on Social Security if the payroll tax deferral were converted to a payroll tax holiday, as the president suggests?

- The Trump administration is exploring avenues, including legislation, to eliminate the obligation to repay the deferred taxes.
- There are serious consequences to a payroll tax holiday. Social Security is designed to replace a percentage of a worker's pre-retirement income based on their lifetime earnings. These benefits come from the taxes paid by the worker and the employer into Social Security.
- A Social Security payroll tax holiday potentially impacts an employee's retirement if the unpaid employee payroll taxes are never remitted. If this happens, the employee will not earn any credit for the quarter worked. Those missing quarters can make a difference as to when Social Security benefits commence at a later date.
- Congress normally adds a provision to hold the Social Security Trust Fund harmless and grant workers full credit for their work, regardless of whether the 6.2% in OASDI is actually paid. This is what Congress did in 2011 under the Obama administration. (*See slide 16 for more information on the Obama-era payroll tax holiday.)* President Trump said on Aug. 12: "At the end of the year, the assumption that I win, I'm going to terminate the payroll tax…We'll be paying into Social Security through the General Fund."
- Further implications on deferral versus forgiveness of payroll tax obligations are discussed on slide 11.

Implementation: Mandatory or Elective?

- On Wednesday, Aug. 13, Treasury Secretary Steven Mnuchin confirmed the voluntary nature of the EO, saying "We can't force people to participate, but I think many small businesses will do this and pass on the benefits." Although some businesses may pass on the benefits, Mnuchin said the administration will "create a level of certainty for employers that want to participate" through regulatory guidance. The Aug. 28 Notice 2020-65 confirms this.

- Employers who choose to participate can proceed in at least one of three ways:

Mandatory	Opt Out	Opt In
Employer pays 6.2% to all eligible employees	Employers pay workers 6.2% unless employee opts out	Employer withholds 6.2% unless worker opts into deferral

- The Notice provides no further information on how employers should structure the program. The National Finance Center issued a memo on Aug. 28 announcing that it would eliminate the OASDI employee deductions for all federal employees whose gross Social Security wages are less than $3,999.99. The NFC takes a mandatory approach for all its employees. The NFC is a federal government agency division that provides human resources, financial, and administrative services for agencies of the United States federal government.

Implementation: Variable Compensation

- Notice 2020-65 clarifies how employers should treat employees with variable compensation due to commissions, raises and bonuses.

- The Notice states that if compensation is not less than $4,000 per bi-weekly pay period, then Social Security taxes must continue to be withheld. Each bi-weekly pay period is considered separately.

Example from National Finance Center Memo: Employees whose normal wages would not exceed the threshold, but who are working a tremendous number of hours due to COVID-19 or other circumstances that increase their wages over the threshold would still have OASDI withheld from their salary.

This means, an employee who ordinarily makes $3,500 per bi-weekly pay period, who now makes $4,100 during a bi-weekly pay period due to a bonus, would not be eligible for the program. OASDI would still be withheld from salary. However, in a subsequent pay period, if the employee makes $3,500, they would be eligible to participate and OASDI would not be withheld from their salary.

Implementation: Forgiveness

- Notice 2020-65 states that employers must withhold and pay the total applicable taxes that were deferred pursuant to this notice ratably from wages and compensation paid between Jan. 1, 2021 and April 30, 2021. Additions to tax will begin to accrue May 1, 2021, with respect to any unpaid taxes.

- Employers are able to make alternative arrangements to collect the taxes from the employee as well. For example, if an employee leaves employment at the end of Dec. 2020, the employer should be able to make alternative arrangements to collect the money. If the employee fails to make payments, the employer would be responsible for repaying the taxes and the employee would have cancellation of indebtedness income.

- **Problem:** The Notice still does not address certain issues. For example, if Congress forgives the tax, what happens to workers who opted out of the deferral and paid the tax?

Next Steps and Other Unanswered Questions

- While the Notice answered some outstanding questions on the implementation of the EO, employers still do not have information on several key details, including the following:

  - How will a deferral work for employees? Will they need to fill out a form and elect to have the deferral apply? What notices will employers be required or advised to make to their workers?
  - How will this be implemented for self-employed individuals?
  - What happens if an employee has several jobs and the collective compensation is above the $4,000 threshold?
  - How does the EO impact existing payroll tax credits, such as the Employee Retention Tax Credit? *(More information on slides 13-14)*

- The AICPA sent a letter on Aug. 12 requesting clarification on several of the issues listed above, including guidance that states that it is the responsibility of the employee and not the employer to pay the deferred payroll taxes. The Chamber of Commerce also requested similar clarifications.

- On Aug. 18, the Chamber of Commerce, National Association of Manufacturers, and 31 other organizations sent another letter to Congress indicating that they would not be participating in the deferral. Specifically, the industry associations note that a deferral is complicated to administer and that employees may be stuck with a big tax bill in 2021. The business groups instead urged Congress to reach a compromise on a broader tax package for businesses and American families.

- Industry groups have not yet issued a response to Notice 2020-65, though many of their concerns are still not addressed by the latest guidance.

Interaction with the CARES Act and the FFCRA

- **How does the EO impact existing payroll tax credits?** While the Notice does not provide clarity on this issue, below is Brownstein's take.
  - Most payroll tax credits in the Internal Revenue Code provide a credit against employer payroll tax liability.
  - However, the following provisions enacted by the Families First Coronavirus Response Act (FFCRA) and the CARES Act provide a credit against both the employers' and employees' payroll tax liability:
    - **FFCRA Sec. 7001, Qualified sick leave wage credit:** Employees who work for employers with fewer than 500 workers are eligible for up to 80 hours of paid sick leave. The credit cannot exceed $511 or $200 a day for 10 days—the amount of the credit depends on the underlying eligibility criteria that triggered the payment of qualified sick leave wages. The credit is allowed against both the employer's and employee's share of OASDI taxes (6.2% each), both shares of Medicare taxes (1.45% each), and federal income taxes withheld from the employee's wages. Amounts of the credit exceeding the total employment tax liability are refundable through checks issued by the IRS.
    - **FFCRA Sec. 7003, Qualified paid leave wage credit:** Employees who work for employers with fewer than 500 workers are eligible for 12 weeks of enhanced FMLA paid leave. The paid FMLA leave tax credit is equal to $200 per day or $10,000 annually for eligible employees. The credit is allowed against both the employer's and employee's OASDI (6.2% each), both shares of Medicare taxes (1.45% each), and federal income taxes withheld from the employee's wages . Amounts of the credit exceeding the total employment tax liability are refundable through checks issued by the IRS.
    - **CARES Act Sec. 2302, Employee Retention Tax Credit (ERTC)**: The ERTC is a credit equal to 50% of qualified wages for each eligible employee per calendar quarter ($10,000 for all calendar quarters). A credit is allowed against the employer's and employee's share of OASDI taxes (6.2% each), both the employer's and employee's share of Medicare taxes (1.45% each), and federal income taxes withheld from employee's wages, reduced first for any benefits of the credits described above. Amounts of the credit exceeding the total employment tax liability are refundable through checks issued by the IRS.

Interaction with the CARES Act and the FFCRA

- How will the payroll tax deferral for employees impact the qualified sick leave and paid leave credits under the FFCRA and the ERTC under the CARES Act?
  - Notice 2020-65 does not address this issue. Employers who took advantage of the credits under the FFCRA and the CARES Act still do not have clarity on how this works in light of the EO. Below is Brownstein's take on how this might work:
    - The payroll tax deferral for employee's OASDI taxes imposed by the EO applies to wages paid Sept. 1, 2020 through Dec. 31, 2020.
    - Further regulatory guidance may specify for that period, a credit is no longer allowed against the employee's 6.2% of OASDI.
    - This would result in a potentially diminished ERTC for employers during that period.

Legality

Legality

- The EO states that the president is invoking his authority under 26 U.S.C. 7508A, which allows for the postponement of certain deadlines by reason of a presidentially declared disaster. The president declared a state of disaster on March 13, 2020, under § 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

- While a payroll tax deferral does not impact Social Security because the taxes must be repaid, Democrats have criticized this as an attempt to gut Social Security down the line, and potentially Medicare as well, if the president is looking to permanently eliminate the tax. However, White House advisors have already walked back President Trump's statement that he would make "permanent" cuts to the payroll tax.

- **Brownstein Observation:** President Trump appears to have acted within the authority granted to him by the Internal Revenue Code.

Historical Perspective

- The last payroll tax holiday was implemented under the Obama administration. The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) (Dec. 17, 2010) implemented a temporary 2% reduction in the payroll tax rate for employees and self-employed individuals in 2011. Thus, the payroll tax rate for employees went from 6.2% to 4.2% for employees and for self-employed workers went from 12.4% to 10.4%.

- The tax holiday was extended twice and was ultimately effective for two years.

- A worker's future Social Security benefits are not affected. It provided general revenue transfers to the Social Security trust funds to make up for the loss of payroll tax revenues.

- There has never been a payroll tax deferral in the past. There will be significant pressure on Congress to convert the EO's payroll deferral into a payroll tax holiday and ensure general revenue transfers to make up for the loss of payroll tax revenues.

Impact on Negotiations

Impact on negotiations

- The president has previously pushed for the inclusion of a payroll tax holiday in COVID-19 stimulus legislation. However, the idea has failed to gain traction amongst both Republicans and Democrats.

- While it is clear the president does not have the authority to eliminate the obligation to pay payroll taxes, as this is a power that only Congress has, the EO simply delays the date on which the taxes are due. If employers stop withholding payroll taxes from employee paychecks, there will be immense pressure down the line for Congress to forgive the accumulated taxes. The outcome of the election will also determine how much consideration Congress gives to converting the payroll tax deferral into a holiday.

- If the payroll tax deferral takes effect, Democrats may view this as part of the GOP’s list of priorities for the next package. If the payroll tax deferral is converted into a tax holiday, it amounts to a regressive additional stimulus check for individuals earning below the threshold amount. Democrats may demand additional funding for low-income refundable tax credits, such as the Earned Income Tax Credit and the Child Tax Credit.

Lost Wage Assistance Program

Lost Wage Assistance – Overview

Summary of the LWA Program

- The EO provides that the federal government will set up a lost wage assistance (LWA) program to supplement state unemployment benefits. The federal government would provide a $300 payment per week, with states potentially covering an additional $100 payment, for a maximum $400 federal supplemental payment for each eligible claimant.

- To qualify, claimants must receive at least $100 per week in any of the following benefits: (1) Unemployment compensation, including Unemployment Compensation for Federal Employees (UCFE) and Unemployment Compensation for Ex-Service members (UCX); (2) Pandemic Emergency Unemployment Compensation (PEUC); (3) Pandemic Unemployment Assistance (PUA); (4) Extended Benefits (EB); (5) Short-Time Compensation (STC); (6) Trade Readjustment Allowance (TRA); or (7) Payments under the Self-Employment Assistant (SEA) program. The CARES Act stated that in order to qualify for the FPUC, claimants had to receive at least $1 per week from any one of the aforementioned programs. The LWA is not payable to individuals collecting Disaster Unemployment Assistance (DUA) or who have exhausted traditional UI benefits and are on Additional Benefits (AB) or extended benefits.
  - The increase in the threshold amount could result in 10% to 15% of lowest-earning UI recipients from receiving FPUC payments, according to Jeff Stein, economist for *The Washington Post*. This may also limit aid for tipped workers and self-employed individuals.

- This would replace $600 Federal Pandemic Unemployment Compensation (FPUC) payments, authorized by the CARES Act, that expired on July 31. FPUC payments were in addition to regular state unemployment compensation.

- The EO does not specifically reference the FPUC program, instead setting up a new grant program for lost wages pursuant to 42 U.S.C. 5174(f)(1)(A). The EO does provide that the lost wage assistance program shall terminate upon the enactment of legislation providing FPUC, or similar compensation for unemployed individuals. Congress has been attempting to negotiate a package that potentially includes an extension for FPUC payments. However, negotiations are at an impasse.

Lost Wage Assistance – Program Funding

- The EO states that the CARES Act included $150 billion in funding for state and local governments through the Coronavirus Relief Fund (CRF) to cover costs incurred due to the COVID-19 emergency. As of the latest report from the Treasury Inspector General regarding state expenditures, more than $80 billion of CRF dollars remain available. States dispute that this much remains.

- In addition, the Department of Homeland Security’s Disaster Relief Fund (DRF) has more than $70 billion in emergency assistance funding available. The president directs the Federal Emergency Management Agency (FEMA) to assist in providing up to $44 billion from the DRF to cover the federal portion of unemployment benefits (75% or $300 per week), and calls upon the states to use their CRF allocation to pay their portion (25% or $100 per week) of continued FPUC benefits.

Lost Wage Assistance—Program Funding

How long will the funding last?

- Assuming the program is successfully implemented, the EO notes that funding expires on Dec. 6, 2020, or when the Disaster Relief Fund (DRF) being used to pay for this program is depleted to $25 billion. The DRF has about $70 billion in funding available and the EO directs $44 billion to go toward this program.

- The CARES Act FPUC benefit of $600 per week cost about $176 billion for about four months (April 4, 2020, through July 31, 2020). Accordingly, the program spent about $10 billion per week. Even at half the cost ($5 billion per week), with coverage for fewer claimants due to new restrictions, the funding is unlikely to last until December. If all states adopted the program, $44 billion would cover about two months. The lost wage assistance payments in the EO is likely a very temporary fix, assuming that states are able to stand up a program in the next few weeks.

- Additionally, per Aug. 12 DOL guidance, if the DRF balance decreases to $25 billion, the program will be terminated. The DRF is also used to cover the cost of damage from natural disasters.

Implementation

DOL Guidance on Eligible Claimants and State Obligations

- On Aug. 12, the Department of Labor issued guidance to the state workforce agencies on the implementation of the LWA grant program. On Aug. 17, DOL issued additional guidance seeking to address a number of outstanding questions raised by state officials regarding the LWA program. Both pieces of guidance are summarized below.

- **Eligible Claimants**
  - Individuals who receive at least $100 in the benefits described on slide 19.
  - Additionally, an individual who was previously unemployed or partially unemployed as a result of COVID-19 after Aug. 1, 2020, but now is employed and no longer filing or receiving unemployment benefits.

- **Notification Requirements**
  - States are required to notify individuals who may be eligible for LWA so they may submit self-certification that the reason for their unemployment is related to COVID-19.
  - There is no required mechanism to notify potentially eligible individuals. States, however, are strongly encouraged to provide easy-to-understand information regarding LWA, including: (1) the steps individuals must take to satisfy the self-certification requirement; and (2) that it is important for individuals to respond immediately.

- **Self-Certification:**
  - An individual does not need to certify each week that he or she is "unemployed or partially unemployed due to disruptions caused by COVID-19." The individual instead must certify once per claim. If individuals qualify for certain programs, such as the Pandemic Unemployment Assistance (PUA), he or she is presumed to have met the self-certification requirements.

Implementation

Program Dates and Administration of Benefits

- **Program Dates**
  - The "period of assistance" is Aug. 1, 2020 to Dec. 27, 2020, if the program has not first been terminated. The FEMA assistance may terminate if: (1) FEMA expends $44 billion from the DRF for the program; or (2) the total, unobligated balance of the DRF account decreases to $25 billion; or (3) legislation is exacted that provides similar compensation. DOL also said LWA is payable retroactively beginning the week ending Aug. 1.
  - If a determination of eligibility for a prior week of unemployment is not made until after the LWA program is terminated, LWA will **not** be paid if one of the three termination requirements is met. An individual whose eligibility status is determined after this end date is not entitled to LWA for weeks of unemployment occurring before the end date.

- **Payment of Benefits.**
  - The state has discretion as to whether it issues a combined payment with regular state UI benefits or separate payment for LWA. However, the state must be able to account for LWA separately from the underlying benefit. Whether paid together or separately, the LWA payments must be paid at the same time as the underlying benefit (either weekly or bi-weekly).
  - DOL said LWA payments are subject to federal income tax.
  - Providing individuals with income tax withholding is a state determination. Reductions to LWA payments other than for tax withholding are not permitted, including for child support debts.

Implementation

State Administration

- **Delivery Mechanism.** The guidance confirms that the states and territories will distribute the funds through their UI system, as a supplemental payment. The guidance also provides a link to an application for states to apply for a grant to assist with the costs of implementation.

- **State Match.** Upon a grant award by FEMA, states and territories may provide eligible claimants $400 per week, with a $300 federal contribution, in addition to the individual's underlying unemployment benefit. If states wish to provide this maximum $400 benefit to their claimants, they ***may*** fund $100 out of amounts allocated to them out of the Coronavirus Relief Fund (CRF). States are ***not required*** to provide the $100 match—traditional state UI benefits suffice. Therefore, some individuals may only receive an additional $300.

- **Reporting Requirements.** DOL said performance reports must include: (1) the number and amount of applications approved weekly; (2) the number of individuals eligible for assistance, broken down by the programs in the Aug. 8 Memorandum; (3) the amount of assistance disbursed weekly; and (4) the number of appeals received.

- **Current State of Play.** On Aug. 12, a number of states, including Ohio, said they would not be spending the state match for the extended unemployment insurance, pointing to already strained budgets. As of Aug. 26, FEMA announced that over 30 states have been approved to receive funds. Payments have already started going out in Arizona and could start going out in Louisiana as well. Other approved states have said it could take days or even weeks before they are ready to disperse funds.

Impact on Negotiations

- White House negotiators have reportedly offered Democrats a number of short-term UI extensions, all of which were rejected by the Democrats.
- Republicans have also attempted to pass on the Senate floor a number of extensions, all of which were rejected along party lines.
- The leading Republican UI proposals are:
  - The Republican proposal in the HEALS Act would replace the $600 FPUC payments that supplement state UI benefits with a $200 per week FPUC through Oct. 4, after which states must match 70% of workers' prior earnings or continue to pay the flat FPUC amount through November.
  - Sens. Mitt Romney, Susan Collins and Martha McSally introduced a bill that would extend currently expired coronavirus unemployment insurance benefits through the end of the year. The bill would extend UI benefits by allowing states to either provide an immediate 80% wage replacement or phased down payments over the next three months. Those who choose the latter option are eligible for an extra $500 per week in August, $400 per week in September, and $300 per week in October. It would also allocate $2 billion to the states to update their UI systems.
  - One potential compromise is a higher FPUC benefit (e.g., $400 per week), capped at 100% of income, so that workers cannot earn more on UI than they would have earned through pre-COVID-19 wages.
  - According to American Action Forum's Analyst Isabel Soto, even a $100 FPUC would result in 25% of workers making more on maximum unemployment than pre-COVID-19 wages.

Impact on COVID-19 Negotiations

Impact on Negotiations

Reactions from Democratic leadership

- In a joint statement, Speaker Nancy Pelosi (D-CA) and Senate Minority Leader Chuck Schumer (D-NY) criticized the EOs, saying the “meager announcements” from the president “provide little real help to families.” Schumer and Pelosi called on Republican negotiators to return to the negotiating table and “meet [them] halfway.”
  - Last week, Democrats offered to reduce their topline number by $1 trillion if Republicans were willing to increase theirs by the same amount. This would have resulted in a deal around $2.4 trillion. Republicans rejected the offer, saying it was too expensive for many members.

- On Aug. 9, Pelosi said the EO, even if successful, is not enough. Another package that addresses major priorities such as funding for schools; stimulus checks for individuals; state and local aid; and tax credits for rehiring workers and cleaning and Personal Protective Equipment (PPE) is still necessary.

- Similarly, Schumer said on Aug. 9 the presidential action “doesn’t do the job,” arguing the EOs will not “go into effect in most places for weeks or months.” Schumer continues to push for a deal on a stimulus package.

Impact on Negotiations

Reactions from Republican leadership

- Sen. Chuck Grassley (R-IA), chair of the Senate Finance Committee, released a statement applauding the EOs. In a Tweet, Grassley said, “I applaud [the president’s] executive actions to help the American [people.] Democrats all or nothing strategy jeopardizes the certainty Americans need to pay their bills. President Trump puts the American [people] first compared to nonstop political games by Democrats.”

- Senate Majority Leader Mitch McConnell (R-KY) said, “struggling Americans need action now. Since Democrats have sabotaged backroom talks with absurd demands that would not help working people, I support President Trump exploring his options to get unemployment benefits and other relief to the people who need them the most.”

- Sen. Lindsey Graham (R-SC) highlighted congressional inaction in a Tweet: “I appreciate the President taking this decisive action but would much prefer a congressional agreement. I believe President Trump would prefer the same.”

Reactions from business groups

- Prominent business groups, including the Chamber of Commerce, have emphasized the need for Congress to pass a full stimulus package in addition to the EOs.

- The AICPA and other organizations have also requested timely guidance from the administration on the implementation of the EOs.

Impact on Negotiations

Next steps

- Rep. Pelosi (D-CA) and Sen. McConnell (R-KY) have both left the door open on continuing negotiations and resolving differences. Both face significant obstacles within their respective parties. On Aug. 27, White House Chief of Staff Mark Meadows and Pelosi spoke about potentially restarting negotiations on a stimulus bill. According to reports, there were no near-term breakthroughs.

- Reports indicate that a deal might be pushed to September and may be included in a Continuing Resolution to fund the government. The upcoming fiscal year deadline is Sept. 30, 2020.

- For now, both the House and the Senate are on recess, but the House returned on Saturday, Aug. 23 to approve legislation providing additional funding for the U.S. Postal Service.

- Senate Republicans are drafting legislation known as the “skinny” package. The bill is likely to alter the HEALS Act in the following ways—replace the UI provision in the HEALS Act with a $300 UI benefit through Dec. 27 and provide $10 billion for the U.S. Postal Service. Additionally, the business tax provisions included in the HEALS Act are expected to be removed. Finally, the skinny package is expected to contain a continuing resolution for current federal funding, which expires on Sept. 30.