National Payroll Reporting Consortium Statement
Concerning the August 8th Memorandum Deferring Payroll Tax Obligations

Henrietta, NY, August 20, 2020 -- The National Payroll Reporting Consortium is a payroll services industry association whose members will need to assist their employer clients in implementing and administering the employee Social Security tax deferral that was announced in an August 8th Presidential Memorandum (the "Memorandum").

The NPRC, whose member organizations provide payroll processing and related services to nearly two million U.S. employers, is concerned that sufficient time is not available to implement the tax deferrals for payrolls paid as of September 1. Employers process payrolls well in advance of payday, and some September payrolls began processing this week. The NPRC is also concerned that the ability to implement deferrals is being delayed by the lack of IRS guidance on fundamental questions about how the deferrals will work, that require answers before necessary programming changes can be made.

Even if guidance were available today, the programming changes are substantial in scope. For example, most payroll systems currently recalculate Social Security taxes with each payment of wages, to ensure that the employee Social Security tax is equal to full-year wages times 6.2%. Payroll systems are designed to apply a single Social Security tax rate for the full year, and to all employees equally. Applying a different tax rate for part of the year, beginning in the middle of a quarter, and applying such a change to some employers but not others, and to some employees but not others, is quite complex. Not all employers and payroll systems will be able to make these complex changes by September 1.

Due to the limited time to prepare and in the absence of IRS guidance, the NPRC has provided the IRS with the following questions and recommendations that will simplify and make it possible for employers to quickly implement the changes. Variations from these recommendations would further delay implementation.

NPRC Recommendations to Open Questions Provided to IRS

Q: Will employers ultimately be held liable for employees' Social Security taxes that are deferred?

A: No, employers should not be held liable. Absent legislation to forgive amounts deferred, employees should pay any deferred taxes with their annual income tax return, IRS Form 1040.

Q: Will the IRS require formal notification as to whether the employer will offer the deferral option to employees?

A: No, the IRS should not obligate employers to provide a notification of the employer's participation decision.

Q: If employees are able to opt in or out of a deferral, how will employees do so?

A: Employers should be permitted to use any reasonable electronic form for employees to make their deferral elections, and employers will have to maintain a record of any elections.

Q: If an employee does not make an election, should the employer apply the deferral, or not?

A: The IRS will need to specify whether, in the absence of an election, the employer should defer qualifying Social Security taxes.

Q: May an employer implement the deferral program any time after September 1?

A: Yes. There will be no penalties or other adverse consequences for employers that cannot or choose not to implement the deferral program in September.

Q: If an employer implements the program after September 1, may the employer refund taxes already withheld after September 1?

A: No. An employer implementing the deferral program after September 1 cannot adjust for prior payrolls.

Q: How is eligibility for deferrals determined?

A: Employers should determine eligibility based strictly on whether wages subject to Social Security tax are less than $4,000 biweekly, or equivalent amounts for other payroll schedules (e.g., $400 daily, $2,000 weekly, etc.). Each wage payment should be evaluated alone, without averaging across multiple payrolls, and without any phase-out formula for employees near the threshold amount.

Q: Will there also be an annual wage limit of $104,000 ($4,000 biweekly annualized)?

A: No, the $4,000 biweekly eligibility limit is evaluated separately for each wage payment. Any biweekly payroll less than $4,000 (or equivalent amounts for other payroll schedules) paid between September 1 and December 31, 2020 is eligible for deferral regardless of how much an employee has earned year-to-date. As an example, if an employee with a biweekly base salary under $4,000 receives a year-end bonus that places the employee over $104,000 in annual wages for the year, if the wage payment with the bonus exceeds $4,000 those wages and taxes would not be eligible for deferral, but the employee will not lose eligibility for the prior deferrals of biweekly payrolls under $4,000.

Q: How will the annual Social Security taxable wage limit of $137,700 affect deferrals? For example, would an employee whose biweekly wages are under $4,000, but who has already earned over $137,700 prior to September 1 with his or her current employer, be eligible for deferral?

A: Since the employee has already met the Social Security taxable wage limit of $137,700, no Social Security tax would be due, and therefore wage payments over the Social Security taxable wage limit of $137,700 are not eligible for deferral.

About NPRC

The National Payroll Reporting Consortium ("NPRC") is a non-profit trade association whose member organizations provide payroll processing and related services to nearly two million U.S. employers. Payroll service providers have long served an important role in our nation's tax collection system as a conduit between employers and government authorities. Payroll service providers improve the efficiency of government tax collections and reporting through electronic payment and reporting programs and improve employer compliance.

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