



American Payroll Association

Government Relations • Washington, DC

December 23, 2011

Representative Dave Camp
Chairman, Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Representative Sander Levin
Ranking Member, Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Senator Orrin G. Hatch
Ranking Member, Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510-6200

Senator Max Baucus
Chairman, Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510-6200

RE: H.R. 3630 Payroll Tax Relief Proposals

Dear Chairman Camp, Ranking Member Levin, Chairman Baucus, and Ranking Member Hatch:

We are writing to express our concerns regarding Section 101 of H.R. 3630, Temporary Payroll Tax Cut Continuation Act of 2011. If passed, the bill would establish a new Social Security Taxable Wage limit of \$ 18,350, to which a 4.2% withholding rate would apply through February 29, 2012. Moreover, wages over \$18,350 paid during January and February of 2012 would be subject to a 6.2% withholding rate.

The American Payroll Association (APA) is a nonprofit association of over 20,000 payroll professionals, most of whom are responsible for the payroll of approximately 17,000 employers throughout the 50 states, the District of Columbia, and U.S. territories. Our membership also includes representatives of large, medium, and small payroll service providers, who in turn process payroll for an additional 1.5 million employers, representing an aggregate total of one-third of the private-sector workforce. The employers for whom APA members process payrolls are diverse in size and industry.

The APA is strictly neutral on policy matters, and does not take a position on whether a reduced social security withholding rate is needed or desired. Our organization and government relations staff serve largely to advise policymakers concerning the administrative and practical implications of proposals affecting payroll and payroll tax administration.

Policymakers need to be aware that, while payroll professionals will do whatever they can to pay their employees correctly and on time, as they always do, there is inadequate lead time available for payroll departments, software companies, and service providers to timely implement the proposal contained in Section 101 of H.R. 3630. Payroll departments will begin to process January 2012 payrolls as soon as December 27, 2011, withholding at the 6.2% rate required if the payroll tax holiday expires as scheduled or the 4.2% and 6.2% rates contemplated by H.R. 3630.

The difficulty is the unprecedented establishment of a new Social Security Taxable Wage limit of \$18,350 for the two-month extension period. A significant percentage of the workforce is likely to meet that limit, and would be subject to the higher 6.2% tax rate for earnings over that amount. However, many payroll systems are not likely to be able to complete such a substantial effort to design program, test, and implement such a change before January or possibly even February without reallocating limited technical resources that are currently assigned to different projects. This is markedly different than the changes enacted by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, which only required changing predefined tables in most payroll systems. The programming change required by H.R. 3630 would have to be made even if subsequent legislation extends the 4.2% rate for the full year. Requiring payroll departments and software companies to implement such a difficult change on such short notice will create substantial problems, as well as widespread confusion and increased costs for thousands of employers.

If payroll software developers, service providers, and employers are unable to modify payroll software in time for January payrolls, this would lead to confusion later in the year as employers try to make sure what should have been collected in January and February is correct, and they may also have to amend first quarter employment tax returns. In some instances, employers may have to collect additional taxes from some employees and reimburse overwithheld taxes to other employees who separated from employment before the programming changes were implemented, further causing confusion and frustration among both employers and employees.

The IRS will have to work quickly to produce guidance necessary to enable appropriate design of compliant systems, plus possible penalty relief for employers who find it impossible to make the changes in the short time frame. The IRS also would likely need to change Forms 941 and W-2 to require separate reporting of the amounts subject to different social security tax rates.

Thank you for taking the time to allow us to explain our concerns. Please do not hesitate to contact us if you have any questions or we can be of further assistance.

Sincerely,

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