

116TH CONGRESS
2D SESSION

S. 4810

To require employee consent for any deferral of payroll taxes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 19, 2020

Mr. VAN HOLLEN (for himself, Mr. WYDEN, Mr. WARNER, Mr. MARKEY, Ms. WARREN, Mr. BENNET, Ms. SINEMA, Mr. CARDIN, Mr. REED, Mr. KAINE, Mr. BLUMENTHAL, Mr. WHITEHOUSE, Ms. HIRONO, Mr. DURBIN, Mr. MANCHIN, Mrs. MURRAY, Mrs. FEINSTEIN, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To require employee consent for any deferral of payroll taxes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Employees
5 from Surprise Taxes Act of 2020”.

6 **SEC. 2. REQUIREMENT OF EMPLOYEE CONSENT FOR ANY**
7 **DEFERRAL OF PAYROLL TAXES.**

8 (a) IN GENERAL.—In the case of an employee of any
9 employer, including any Federal Government employer,
10 the withholding and payment of the tax imposed by section

1 3101(a) of the Internal Revenue Code of 1986, and so
2 much of the tax imposed by section 3201 of such Code
3 as is attributable to the rate in effect under such section
4 3101(a), with respect to such employee shall not be de-
5 ferred pursuant to section 7508A of such Code for any
6 pay period ending after the date of the enactment of this
7 Act, unless the employee provides written consent to such
8 deferral to the employer.

9 (b) LIABILITY FOR FAILURE TO REMIT TAXES.—In
10 the case of any employee who does not provide the written
11 consent required under subsection (a), the employer of
12 such employee shall be solely liable according to the rules
13 of the Internal Revenue Code of 1986 for any failure to
14 withhold and remit the taxes described in such subsection.

15 (c) NOTICE.—Each employer who participates in any
16 deferral of the withholding and payment of the taxes im-
17 posed by sections 3101(a) and 3201 of the Internal Rev-
18 enue Code of 1986 pursuant to section 7508A of such
19 Code shall provide notice, in such manner as the Secretary
20 of the Treasury (or the Secretary's delegate) may pre-
21 scribe as soon as possible after the date of the enactment
22 of this Act, to each employee of the employer of the em-
23 ployee's right to provide or withhold written consent under
24 this section, and of the future tax liability which would

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- 1 be incurred as a result of providing consent to the deferral
- 2 of such taxes.

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