

Struggling to Meet Business Costs? Don't Neglect Payroll Taxes

by Joseph M. Donegan on November 14, 2012

Many of the nation's small businesses have been adversely impacted by the economic downturn. When revenues start falling, some small businesses seek out areas in which they can afford to cut costs. Suspending payroll tax payments to the Internal Revenue Service should never be one of them.

Under federal tax law, businesses are required to withhold payroll taxes from their employees' paychecks and match these amounts when they make payments to the IRS. When companies divert these payments, even temporarily, they violate tax laws and run the risk of attracting the attention of the IRS. When this occurs, it may not only be the business owners who are held accountable, but all persons who fall under the responsible and willful definition of neglecting payroll taxes.

In determining accountability, the IRS will typically examine several individuals and factors, including the roles of each employee, those who have the authority to sign company checks, the identity of the company's officers, directors, and shareholders, and the individuals with the power to hire and terminate employees. Individuals who control the financial affairs of a business may also fall under the "responsible persons" label, the news source explains.

The IRS must also prove that the responsible persons acted willfully. Willfulness occurs when individuals pay creditors with the knowledge that the IRS has not been paid. Individuals may also be guilty of acting willfully if they "recklessly" disregard a known risk that the IRS taxes were not paid.

It's crucial that businesses understand that failing to investigate claims of unpaid taxes constitutes an act of willfulness, and even if they were not fully aware that taxes were not paid. The IRS has been focusing more heavily on businesses in an effort to close the tax gap, making it crucial that small businesses adhere to the tax code to avoid legal action.