



# EMPLOYMENT LAW

Avoiding and Mitigating Potential  
Personal Liability for Unpaid Payroll Taxes

**By Stephen P. Kauffman, Esquire**  
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## Avoiding and Mitigating Potential Personal Liability for Unpaid Payroll Taxes

### I. Introduction

Whenever a client starts a new business, one of their biggest concerns is protecting themselves and their family's assets from personal liability for the business's legal obligations. This is why we attorneys customarily recommend forming a limited liability entity (an "LLE") to conduct business operations. But as attorneys we recognize that there are limits to the limited liability protection provided by LLEs. For example, landlords frequently require the LLE's owners to personally guarantee the LLE's obligations under the lease, and sometimes even require IDOTS on their personal residences. And an LLE will not protect its owners from liability arising out of their own tortious conduct. Business owners anticipate and mitigate these exposures by, for example, negotiating limited guarantees, or procuring adequate insurance coverage.

But there is one form of personal liability that arises all too frequently, which catches LLE owners and their advisors completely by surprise - - liability for unpaid payroll taxes. This liability is statutory in nature, and arises with respect to delinquent federal and state payroll taxes, as well as delinquent sales and use, excise, and other tax obligations. This article will focus on personal liability for unpaid federal payroll taxes, which was formerly known as the 100% Penalty, and is now generally referred to as the trust-fund recovery penalty ("TFRP"). Before addressing the TFRP, let's take a quick look at the payroll obligations the Internal Revenue Code (the "Code") imposes on employers, and the consequences of failing to meet those obligations.

## II. Payroll Tax Obligations

Employers are required to file payroll tax returns, forms 941, quarterly, and an unemployment tax return, form 940, annually. Forms 941 report gross wages to employees, FICA and federal income tax withheld, deposits made during the quarter, and the balance of tax due. Forms 941 cover the calendar quarters ending in March, June, September, and December, and must be filed no later than 30 days after the end of the quarter, at which time any tax due must be remitted with the returns. Employers are also required to make deposits periodically throughout the quarter, on schedules dependent upon the amounts of tax involved. These deposit, filing, and payment obligations will be referred to as the Payroll Obligations. *See generally IRS Publication 15 (Circular E).*

## III. Penalties and Interest imposed only on the Employer

When employers fail to meet their Payroll Obligations, the Code imposes substantial civil penalties, as well as potential criminal penalties. The civil penalty for failing to make required deposits (the “FTD Penalty”) ranges from 2.00% to 15.00% of the late deposit; the penalty for failing to file a return by its due date (the “FTF Penalty”) is 5.00% per month of the tax due on the return, to a maximum of 25.00%; and the penalty for failure to pay the tax due as reflected on a return (the “FTP Penalty”) is .50% to 1.00% per month of the tax due, to a maximum of 25.00%. Interest at the applicable federal rate continues to accrue during periods of delinquencies.

These penalties are imposed **on the employer only**, for our purposes an LLE, and are **not imposed on LLE owners**. However, as mentioned earlier, and as explained in greater detail below, LLE owners can be held personally liable for the portion of any delinquency attributable to trust-fund taxes. This is the TFRP.

## IV. IRC §6672-The Trust-Fund Recovery Penalty

### A. The Statute

The TFRP is imposed by §6672(a) of the Code, which provides, in relevant part, as follows:

Any person required to collect, truthfully account for, and pay over any . . . [Trust-Fund Tax] . . . who willfully fails to . . . [do so] . . . , shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax not collected, or not accounted for and paid over. . . .

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**WHEN EMPLOYERS FAIL TO MEET THEIR PAYROLL OBLIGATIONS, THE CODE IMPOSES SUBSTANTIAL CIVIL PENALTIES, AS WELL AS POTENTIAL CRIMINAL PENALTIES.**

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**FACTORS RELEVANT TO CONTROL OF FINANCES INCLUDE (A) OFFICE OR OTHER POSITION OF AUTHORITY HELD, (B) AUTHORITY TO SIGN CHECKS OR DISBURSE FUNDS, (C) OWNERSHIP INTEREST, (D) ABILITY TO HIRE OR FIRE EMPLOYEES, AND (E) ABILITY TO DETERMINE WHO IS PAID, AND WHEN.**

## *B. Terminology and Scope*

The penalty imposed by §6672 is commonly referred to as the Trust-Fund Recovery Penalty (the “TFRP”). Liability is imposed on persons responsible to collect, account for, and pay over Trust-Fund Taxes (a “Responsible Persons”) who willfully fail to do so (“Willfulness”).

## *C. What are Trust-Fund Taxes and how are they Imposed?*

In the federal payroll context, Trust-Fund Taxes are taxes that are withheld from employees’ wages (i.e. the employees’ share of FICA (“Employee FICA”) and federal income taxes withheld (“FITW”). Trust-Fund taxes **do not include** direct taxes. Direct Taxes are (1) the employer’s share of FICA tax (“Employer FICA”), (2) federal unemployment taxes (“FUTA”), (3) interest, or (4) penalties for failure to (a) timely deposit payroll taxes (“FTD”), (b) timely pay payroll taxes (“FTP), or (c) timely file payroll tax returns (“FTF”) (collectively the “Direct Taxes”).

## *D. How is the TFRP Imposed?*

The penalties and interest imposed on employers arise automatically. In contrast, the IRS must assess a TFRP against a **Responsible Person** who **willfully** fails to collect, account for, and pay over Trust-Fund Taxes. If the IRS doesn’t assess the TFRP, the Responsible Person has no personal liability. When the IRS discovers a Trust-Fund delinquency, it assigns a revenue officer (an “RO”) to conduct a TFRP investigation. When the RO recommends assessment of a TFRP against one or more Responsible Persons, they each have a right to an **administrative appeal before a TFRP is assessed**, and interest on the TFRP does not begin to accrue **until after** the TFRP is assessed. Even **after the TFRP is assessed**, the Responsible Persons have a right to a **judicial review**. And even after judicial remedies are exhausted, the delinquency can be resolved administratively. The process is discussed in greater detail below.

## *E. Who are Potentially Responsible Persons?*

In deciding whether a person is a Responsible Person, the IRS takes the position that “responsibility is a matter of status, duty, and authority.” See *IRM 1.2.14.1.3 (6/9/2003)*, and *IRS Policy Statement 5-14*. The courts generally agree, and decide this issue based on the extent to which the person **exercises control over the finances of the employer**. Factors relevant to control of finances include (a) office or other position of authority held, (b) authority to sign checks or disburse funds, (c) ownership interest, (d) ability to hire or fire employees, and (e) ability to determine who is paid, and when. No one factor is determinative, and there can be more than one Responsible Person.

During investigations of payroll tax delinquencies, the IRS casts its net far and wide when seeking Responsible Persons to assess. In addition to corporate officers, other persons who have been held liable include directors, stockholders, members, trustees, personal representatives, employees, lenders, creditors, accountants, and attorneys. **That's right, even accountants and attorneys can be held personally liable if they get too involved in a client's business affairs.** See, e.g., *In re: Quattrone Accountants, Inc.*, (1988, Bkcty Ct PA) 88 BR 713, *affd* (1989, DC PA), *affd* (1990, CA3) 895 F2d 921; and *Dougherty v. U.S.*, (1989, Cl Ct) 18 Cl Ct 335, *affd without op* (1990, CA Fed Cir) 914 F2d 271, and .

#### F. What is Willfulness?

As used in the statute, willfulness does not have the same implications as when it is used in criminal statutes. For TFRP purposes, willfulness does not require any sort of malice or evil intent. It is not *malum in se*. All that is required is proof that the Responsible Person, after discovering that there was a Trust-Fund Tax delinquency, permitted the employer's unencumbered funds to be used to pay creditors other than the IRS. Even paying employees' net wages is sufficient to a finding of willfulness. Good faith, reasonable cause, and similar defenses are typically insufficient to avoid liability.

### V. Magnitude and Nature of Payroll Tax Delinquencies

Federal payroll tax delinquencies run into the tens of billions of dollars. It's a major problem. The IRS pursues TFRP assessments aggressively, and the Department of Justice has begun prosecuting more of these cases criminally. So why is this the case? It's very simple—for a struggling business, payroll taxes (Trust-Fund as well as Direct Taxes) are a very tempting source of capital during periods of tight cash flow.

Instead of depositing and paying the Payroll Taxes, and filing Payroll Tax Returns as required by law, some struggling businesses will use these funds to pay other operating expenses. Even though it's illegal, in fact, it's criminal, the temptation is understandable. If a business doesn't pay its rent, or its utilities, or its employees, the feedback is immediate and harsh. An unpaid landlord will evict, an unpaid utility will turn off the power, and unpaid employees leave and file suit.

By contrast, if a business doesn't deposit its payroll taxes, or file its payroll tax returns, many months or even years may pass before it is contacted by the IRS. Furthermore, employees whose withheld Trust-Fund Taxes are not being paid are none the wiser, since many employers still issue forms W-2 showing taxes withheld, and the IRS gives the employees credit for these amounts, whether they have been paid over or not.

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**THE IRS PURSUES TFRP ASSESSMENTS AGGRESSIVELY, AND THE DEPARTMENT OF JUSTICE HAS BEGUN PROSECUTING MORE OF THESE CASES CRIMINALLY.**

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**SOME EMPLOYERS VIEW THE USE OF PAYROLL TAXES TO PAY OTHER OPERATING EXPENSES OF THE BUSINESS AS BEING EQUIVALENT TO AN UNSECURED LOAN FROM THE GOVERNMENT. THE GOVERNMENT HAS A DIFFERENT PERSPECTIVE, IT CONSIDERS THE FAILURE TO REMIT TRUST-FUND TAXES AS BEING A THEFT FROM WORKERS.**

Some employers view the use of Payroll Taxes to pay other operating expenses of the business as being equivalent to an unsecured loan from the government. The government has a different perspective, it considers the failure to remit Trust-Fund taxes as being a theft from workers.

In addition to not making deposits, many struggling businesses delay filing returns until they have the money to pay the back taxes. As demonstrated below, this is a very big mistake, and compounds the problem.

## VI. Hypothetical Payroll Tax Delinquency

So let's assume that a hypothetical business, Employer, Inc., whose sole stockholder is Peter President, has a quarterly payroll tax obligation of \$100,000, consisting of \$25,000 in Employee and Employer FICA, and \$50,000 in FITW. Employer is working on a large project for a customer, and everything is going well, until there is a government shutdown, at which time its customer stops paying its bills. Unfortunately, Employer has incurred many obligations associated with this project, and if it stops work and lets its employees go, it will be ruined. Let's also assume that Employer has enough revenue from other sources to pay net wages and all of its other operating expenses, but not enough to cover Payroll Taxes.

Convinced that the shutdown will be brief, and buoyed by its customer's assurance that it will ultimately be paid, Employer continues working on the project. Now let's assume the shutdown continues for 4 quarters, and during this time, Employer doesn't file any quarterly Payroll Tax Returns, so as to avoid alerting the IRS.

At the end of the year, Employer's customer folds, but not before making a partial payment of \$300,000. Employer's unfiled payroll tax returns reflect a balance due of \$400,000. So Employer licks its wounds, files its unfiled returns, remits a partial payment of \$300,000, and waits for the IRS to contact it about the balance due. Let's see how that works out for Employer. **Spoiler alert: By remitting the payment in this fashion, Mr. President has just made a "life-altering" mistake. If he had read the portion of this article dealing with Designation of Payment (below), he could have avoided ALL personal liability, and strengthened Employer's ability to resolve the remaining delinquency.**

## VII. The Payroll Delinquency Process

### 1. ADMINISTRATIVE REVIEW

#### A. IRS Notices to Employer

Employer's first inkling that there might be a problem comes several months

after the returns are filed in the form of an IRS notice (the “First Notice”). The First Notice indicates that the balance of payroll tax due from Employer is \$332,000+, and requests prompt payment. President is stunned, and convinced that this First Notice must be a mistake. Employer is recovering, and instead of dealing with this unpleasant information, he buries his head in the sand, and carries on, hoping it will go away. It rarely does. Over the next several months he receives several additional notices, including one that is titled final notice before levy (“Final Notice”).

President ignores all of these notices as well. As will be seen in the next section, complacency is usually a big mistake. But before moving to the next section, you may be curious about how the total liability went from \$400,000 to \$632,000+ in a comparatively short period of time, and how designation of payment could have avoided personal liability. A spreadsheet reflecting the tax, penalties, and interest, as well as the effect of designation of payment, can be found at the end of this article.

### *B. IRS Levy and Employer’s Right to a Collection Due Process (“CDP”) Hearing*

The next significant occurrence is the issuance of an IRS levy on Employer’s operating account. Fortunately, there is only \$8,000 in the account when the levy is served, and a levy on a bank account, as opposed to a wage levy, is not a continuous levy. It seizes only what is in the account on the date it is served on the bank, so it could have been a lot worse.

But if Employer had filed a collection due process request (a “CDP Request”) within 30 days of the issuance of the Final Notice, it could have delayed and perhaps even avoided this levy altogether. Even though Employer might not have any substantive defenses to the levy, it could have sought a collection alternative (i.e. offer-in-compromise (“OIC”), installment agreement (“IA”), or classification as currently not collectible (“CNC”).

And even if Employer was unhappy with what the IRS proposed during the CDP, it could file a Petition with the United States Tax Court (the “Tax Court”) seeking judicial review. Although these matters proceed very informally, it is essential for an attorney representing Employer to document the file carefully, as some courts limit further judicial review to the administrative record.

### *C. TFRP Investigation of Potentially Responsible Persons and the Form 4180*

Time passes, and Pete President starts to believe his strategy of ignoring the IRS just might work. Then one day an RO contacts Pete to schedule an interview of him and other potentially Responsible Persons. On the day of the interview, the RO interviews Pete and several of his key employees. He’s disappointed that the RO is not as friendly as he had hoped. Of course, if Pete

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**AFTER THE TFRP IS ASSESSED, INTEREST BEGINS TO ACCRUE AGAINST THEM PERSONALLY; A GENERAL TAX LIEN ARISES AUTOMATICALLY, BY OPERATION OF LAW, AGAINST THEM PERSONALLY; AND THE IRS HAS THE RIGHT TO BEGIN ENFORCED COLLECTION ACTION AGAINST THEM PERSONALLY (E.G. FILE A NOTICE OF FEDERAL TAX LIEN “NFTL”, ISSUE LEVIES, AND OTHER HORRIBLE THINGS)**

had an inventory of hundreds of delinquent tax files that he had to work every day, he might not be in such a good mood either.

As each interview progresses, the RO completes by hand a form 4180, Report of Interview with Individual Relative to TFRP. The 4180 addresses the myriad factors relevant to Responsibility and Willfulness. At the conclusion of each interview, each person interviewed is asked to sign the form 4180 prepared by the RO. Despite the facts that the form 4180 is ambiguous and confusing, many ROs prepare them incorrectly, and many potentially Responsible Persons make mistakes because they are nervous and unprepared, most folks sign them, oftentimes without legal representation, and sometimes without even reading them.

#### *D. Proposed Assessment of TFRP (Letter 1153 and Form 2751) and Right to Appeal*

After the interview is complete, the RO issues Notices of Proposed Assessment of the TFRP, Form 2751, under cover of Letters 1153 to Pete President and several other key employees who, she alleges, are Responsible Persons who Willfully failed to collect, account for, and pay over Employer’s Trust-Fund Taxes. Recipients of these Notices have three (3) choices: (a) do nothing, (b) sign and return the form 2751 agreeing to the assessment of the TFRP, or (c) not sign and file an appeal.

If they do nothing or sign the 2751, the TFRP will be assessed against them personally. On the other hand, if the Responsible Person files a Protest with the IRS Appeals Office, the TFRP will not be assessed while the appeal is pending, which can take many months. **And during this time, the LLE can begin designating voluntary payments to delinquent Trust-Fund Taxes (discussed in detail below).**

#### *E. Significance of Assessment*

Assessment is a very significant event. Until the TFRP is assessed against a Responsible Person, interest does not accrue against them personally, and there is no tax lien against them personally. After the TFRP is assessed, interest begins to accrue against them personally; a general tax lien arises automatically, by operation of law, against them personally; and the IRS has the right to begin enforced collection action against them personally (e.g. file a Notice of Federal Tax Lien “NFTL”, issue Levies, and other horrible things). To satisfy a federal tax lien, the United States can force a sale of jointly-owned property, even property owned by husband and wife as tenants-by-the-entireties, **even if one of the spouses is not liable for the underlying tax.** See *United States v. Craft*, 535 U.S. 274 (2002). Additionally, TFRPs are not dischargeable in bankruptcy.

There are a few additional points to understand about the TFRP. If it is paid by



a Responsible Person, it is non-deductible. See §162(f) of the Code. However, even though the Code treats the TFRP as a penalty for deduction purposes, it is really only a collection device. In other words, there is only one debt (i.e. the unpaid Trust-Fund Taxes), but two or more liable parties (i.e. the LLE and all Responsible Persons). Essentially, the TFRP makes Responsible Persons personal guarantors of the LLE's delinquent Payroll Tax to the extent of the Trust-Fund assessment, plus any post assessment interest accrued.

#### F. Importance of Designating Payments

If, as when the Employer remitted its partial payment, undesignated payments are remitted to the IRS, it will apply them in the best interest of the government. This generally means that it will apply the payments first to Direct Taxes, penalty, and interest. See *IRS Policy Statement P-5-14, IRM 1.2.14.1.3.10*. However, if properly structured, an LLE can designate voluntary payments to Trust-Fund Taxes, which will reduce, *pro tanto*, the total Payroll Tax Delinquency as well as the total liability for each Responsible Person against whom the TFRP has been assessed *id.* It will also reduce the exposure of potentially Responsible Persons if the TFRP has not yet been assessed. **If you take nothing else away from this article, remember this paragraph. It will serve you and your client well.**

By reference to the example above, when the Employer remitted the \$300,000 partial payment to the IRS, its records indicated that its total liability was \$400,000. In fact, as a result of penalties and interest, its liability had grown to \$632,000. Of this amount, \$300,000 was Trust-Fund Taxes, and \$332,000 was Non Trust-Fund Taxes. Since there was no written designation, the IRS applied the entire payment to the Non Trust-Fund Taxes, leaving a balance of \$300,000 in Trust-Fund Taxes for which Responsible Persons (i.e. Pete President and Employer's key employees) are potentially liable, and \$32,000 in Direct Taxes. After remitting this payment, Pete and his key employees have exposure to a \$300,000 TFRP, the LLE still owes \$332,000, and has no funds to pay towards Trust-Fund Taxes. A terrible result.

If Employer had designated application of the \$300,000 part payment to Trust-Fund Taxes, Pete and his key employees would have **NO TFRP exposure**, and while Employer's liability would still be \$332,000, all of it would be Non-Trust-Fund, for which there is **no TFRP exposure**. This would give the Employer a much stronger bargaining position to negotiate a resolution with the IRS. Even in the worst case, if IRS refused to settle and Employer went out of business, neither Pete nor any of Employer's key employees would have any personal exposure.

But attorneys are well advised to exercise great care when assisting their clients with the designation of payments. Designations must be in writing, and instructions need to be explicit. Furthermore, payments can only be designated if they are **voluntary**. Payments made pursuant to an IA or OIC, or seized by IRS levies, or made during a bankruptcy are **not voluntary**.

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**HOWEVER, IF PROPERLY STRUCTURED, AN LLE CAN DESIGNATE VOLUNTARY PAYMENTS TO TRUST-FUND TAXES, WHICH WILL REDUCE, PRO TANTO, THE TOTAL PAYROLL TAX DELINQUENCY AS WELL AS THE TOTAL LIABILITY FOR EACH RESPONSIBLE PERSON AGAINST WHOM THE TFRP HAS BEEN ASSESSED *ID.***

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**THE DEFENSES TO A TFRP ASSESSMENT ARE (A) THE PERSON IS NOT A RESPONSIBLE PERSON, (B) THE PERSON DID NOT ACT WILLFULLY, (C) THE AMOUNT OF THE TFRP HAS BEEN MISCALCULATED (A COMMON OCCURRENCE IF THE EMPLOYER HAS MADE PAYMENTS DESIGNATED TO TRUST-FUND TAXES), AND (D) THE ASSESSMENT IS BARRED BY THE STATUTE OF LIMITATIONS.**

As previously mentioned, a spreadsheet reflecting the tax, penalties, and interest, as well as the effect of designation of payment, can be found at the end of this article. Finally, do not succumb to the temptation to alter checks after the fact to indicate that they had been designated to Trust-Fund Taxes. The effort will not only fail, but may even lead to a prosecution for evasion of payment or false statement.

### *G. Appeal (The Protest) and Potential Defenses*

In order to preserve administrative appeal rights, the recipient of a Notice of Proposed Assessment must file a written protest within 60 days of the date of the Letter 1153. In due time after a Protest is filed, an Appeals Officer (an “AO”) will schedule a hearing. Even though it is a part of the IRS, Appeals is independent of Examination and Collection. Appeals hearings are very informal, and the Taxpayer has the right to submit evidence, and make legal arguments. AOs are authorized to settle based on perceived hazards of litigation. But contrary to what many IRS employees believe, AOs do not typically “give away the farm.” They make their decisions based purely on the facts and the law. This is where the form 4180 might create problems, and where a Taxpayer has an opportunity to correct any inaccuracies.

The defenses to a TFRP assessment are (a) the person is not a Responsible Person, (b) the person did not act Willfully, (c) the amount of the TFRP has been miscalculated (a common occurrence if the Employer has made payments designated to Trust-Fund Taxes), and (d) the assessment is barred by the statute of limitations. The general rule is that the TFRP must be assessed within three (3) years after the later of (i) the deemed due dates of the Payroll Tax Returns or (ii) the dates on which the Payroll Tax Returns were actually filed, and if not, the assessment is barred by the statute of limitations. Nevertheless, there are events that toll limitations for assessing the TFRP. Assuming all of the Payroll Tax Returns are timely filed, the deemed due date will be April 15th of the following calendar year. Some courts recognize limited reasonable cause defenses, but they are clearly in the minority.

At the conclusion of the Appeal, the Appeals Officer will make an offer. The offer might be to accept what the RO initially proposed in the Notice of Proposed Assessment, or it might be for less. If the offer is accepted, the Taxpayer will be asked to sign a form 870-AD. Unlike signing the form 2751, if an 870-AD is signed, then all further judicial reviews are waived. Whether or not the Taxpayer signs the form 870-AD, the TFRP will be forwarded for assessment.

## **2. JUDICIAL REVIEW**

After the TFRP is assessed, and assuming the Taxpayer has not signed a form 870-AD, the Taxpayer will have the right to a judicial review of the TFRP, but

only after they (a) pay the full amount of the TFRP attributable to the Trust-Fund Tax of one employee for one period (generally a very nominal amount), (b) file, within 2 years of making the payment, a claim for refund on IRS form 843, and (c) after the IRS disallows the claim (or if fails to act within 6 months), file suit in a U.S. District Court of the U.S. Court of Federal Claims within 3 years of the claim disallowance. Thereafter the case proceeds much like any other federal litigation, with the same rights of appeal. TFRP cases are probably the most frequently litigated.

Despite the fact that liability hinges on the presumption that the Responsible Person acted Willfully, and is therefore an intentional act, the Code creates a right of contribution among Responsible Persons, which can be litigated as well.

## **VIII. Post-Judicial Review**

After all judicial proceedings are concluded or waived, the Taxpayer will have plenty of opportunities to resolve the TFRP administratively. The IRS collection process is quite involved, and beyond the scope of this article, but the author will be happy to discuss it with any member of the Bar at anytime.

## **IX. Representation**

Of course any person (i.e. an LLE or a potentially Responsible Person) has the right to be represented before the IRS by an attorney, a CPA, or an enrolled agent at any point in the entire process, even before the first notice of underpayment is issued. The IRS will not recognize a representative unless and until the Taxpayer signs a properly completed form 2848, and it is filed with the IRS Central Authorization File (the “CAF”).

## **X. Conclusion**

TFRPs are a source of potential personal liability that most business owners overlook, but like most other forms of liability, with a modicum of planning, it can be mitigated or even entirely avoided. In addition to designation of payment, there are many other opportunities to address this problem proactively, even before it arises. On the other hand, if it is ignored, the consequences can be devastating and life altering. Feel free to contact the author at (410) 382-9606 or [skauffman@skaufflaw.com](mailto:skauffman@skaufflaw.com) at any time to discuss questions about TFRPs or any other federal or state tax controversy. Mention this article, or buy him a cup of coffee, and the first half hour of your consultation is free.

# AVOIDING AND MITIGATING POTENTIAL PERSONAL LIABILITY FOR UNPAID PAYROLL TAXES

## CALCULATIONS BASED ON STATED ASSUMPTIONS

Assumptions:					
FITW PER QUARTER	50,000		FTP PENALTY PER MONTH	1.00%	
EMPLOYEE FICA PER QUARTER	25,000		FFP PENALTY PER MONTH	5.00%	
EMPLOYER FICA PER QUARTER	25,000		INTEREST	4.00%	
FTD PENALTY	15.00%		DELINQUENCY IN MONTHS	12	

## TAX DUE PER BLUES 001 BOOKS, RECORDS, AND UNFILED RETURNS

FICA						
Quarter	FITW	Employee	Employer	Subtotal	Trust	Direct
1	50,000	25,000	25,000	100,000	75,000	25,000
2	50,000	25,000	25,000	100,000	75,000	25,000
3	50,000	25,000	25,000	100,000	75,000	25,000
4	50,000	25,000	25,000	100,000	75,000	25,000
	200,000	100,000	100,000	400,000	300,000	100,000

## ACTUAL DELINQUENCY WITH PENALTIES AND INTEREST

FICA										
Quarter	FITW	Employee	Employer	Subtotal	FTD	FTP	FTF	Subtotal	Interest	Total
1	50,000	25,000	25,000	100,000	15,000	12,000	25,000	152,000	6,080	158,080
2	50,000	25,000	25,000	100,000	15,000	12,000	25,000	152,000	6,080	158,080
3	50,000	25,000	25,000	100,000	15,000	12,000	25,000	152,000	6,080	158,080
4	50,000	25,000	25,000	100,000	15,000	12,000	25,000	152,000	6,080	158,080
	200,000	100,000	100,000	400,000	60,000	48,000	100,000	608,000	24,320	632,320

## TRUST-FUND TAX AND DIRECT TAX

FICA										
Quarter	FITW	Employee	Total Trust		Employer	FTD	FTP	FTF	Interest	Tot Direct
1	50,000	25,000	75,000		25,000	15,000	12,000	25,000	6,080	83,080
2	50,000	25,000	75,000		25,000	15,000	12,000	25,000	6,080	83,080
3	50,000	25,000	75,000		25,000	15,000	12,000	25,000	6,080	83,080
4	50,000	25,000	75,000		25,000	15,000	12,000	25,000	6,080	83,080
	200,000	100,000	300,000		100,000	60,000	48,000	100,000	24,320	332,320

## APPLICATION OF UNDESIGNATED PAYMENT

FICA													
Quarter	FITW	Em- ployee	Total Trust	Pay- ment	Em- ployer	FTD	FTP	FTF	Interest	Tot Direct	Pay- ment	Total	Bal- ance
1	50,000	25,000	75,000		25,000	15,000	12,000	25,000	6,080	83,080	(83,080)	(83,080)	-
2	50,000	25,000	75,000		25,000	15,000	12,000	25,000	6,080	83,080	(83,080)	(166,160)	-
3	50,000	25,000	75,000		25,000	15,000	12,000	25,000	6,080	83,080	(83,080)	(249,240)	-
4	50,000	25,000	75,000		25,000	15,000	12,000	25,000	6,080	83,080	(50,760)	(300,000)	32,320
	200,000	100,000	300,000		100,000	60,000	48,000	100,000	24,320	332,320			

## DESIGNATED PAYMENTS

Entire \$300,000 is applied to Trust-Fund Tax. Only balance remaining is Direct Tax, Penalty, and Interest of \$332,000.

# ABOUT THE AUTHOR



## **STEPHEN P. KAUFFMAN, ESQUIRE**

El is dolum et pos quuntia nobis siti sit, ullatae. Uga. Henihitas autempe lentemp oreped et poritas id undi te cone mos arum qui sandips aerem. Itaquas in et et quia con excepudi omnis ex et alitas erum quiandi cidenis cum ulpa consent fugita vid que eossum volecea riorit repudigent faci dipsunt omnist re, id molora quidunt, ommolor eperatia dendis cum quid quo cone ventioria eserror sim ut as doluptas renis eiciet quidi renimus abo. Gent este et harum lacculpa nemo vendicium int undusdam voluptium et id quaspel int, nobis doluptatus es peliqui res et alibero quam, omniscipsus nem re pedit int libus dolorpores aruntem poruptur sequis esequatest is es nihil moluptam ut doluptas dolores por sequia dit aspernam quam vit, te dolo quae is sunt et, alitaspel eatenducias essecto tatiis sedistem quibeatust ut ea dolut pa consentiur sequasp edisquo saperumqui rerem volupta tempere rovit, comnist in conempore volor maximo qui occumquost, nis eliatem oloressum la sint fugit quo odit aut eiciisq uibusap erfernatiat. Fugitin necti optiis moluptatus eum nobis eatis sequatio. Itasitiam harum elesequis re, sero consed expelig nateceded ut aut acestem quatuscit volutat que lit perrumquis del ilia pos et accusapelis volore cupitur autectia nonessit latae erecae voluptidi qui tem quunt hitias corro quam, que ditatior mos nimpore maximag nimum is aut quia vit eaquam et magni doloresequi ut dolendi pissuscidem nistorum sunt lignia di nonsendi niaturi oribeatem es voluptae etur sinctam, soluptia





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