



Robert W. Wood THE TAX LAWYER

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Employers Who Violate Tax Law May Go To Jail

When you talk of [tax crimes](#), most people think of hiding income in foreign accounts, two sets of books, cash transactions and just general underreporting of income. However, the universe of criminal tax problems is much larger. For many small businesses, potential criminal tax exposure is considerably closer to home. I'm talking about employment tax violations.

Having employees inevitably involves withholding income and employment taxes. Employees must be paid via net check on which tax withholdings are taken. Then you must promptly pay over the withheld taxes to the IRS. Having employees also means filing quarterly employment tax returns with the IRS.

You must send an [IRS Form W-2](#) to each employee in January the following year. You can hire a payroll service to do some or all of this. Your payroll service can cut the checks to your employees, withhold the taxes, transmit the taxes immediately to the IRS, and issue the Forms W-2.

If you fail in some or all of these duties and your failure is serious enough, the matter can become criminal. Huge numbers of businesses each year use IRS tax money temporarily and figure they'll pay it back as soon as they can. Many who get caught in this no-win situation use the withheld tax money for something else like paying suppliers or the rent. See [Personal Tax Liability When A Business Goes Under](#).

Most of these tax disputes are civil, but still plenty serious. Yet the IRS in 2010 saw a [three-year high](#) in recommended prosecutions for employment tax cases. What's more, 83% of the convictions lead to jail time with an average sentence of 24 months. Both of these figures are all-time highs.

These figures should tell you that if you are tempted to commit a payroll tax violation, don't. It makes sense that the IRS takes such matters seriously. Payroll taxes account for approximately 35% of the \$2.3 trillion in taxes the IRS collected in 2010. That's some serious money.

Employee leasing companies seem particularly in the IRS crosshairs. But even if you're a struggling business hoping to pay the IRS later, that may not save you.

For more, see:

[1099 Or W-2?](#)

[With Taxes "Responsible" Means Holding The Bag](#)

[Personal Tax Liability When A Business Goes Under](#)

[Criminal Penalties For Misclassifying Independent Contractors?](#)

[Internal Revenue Bulletin 2005-24](#)

[Beware Personal Liability For Employee Taxes](#)

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