



Robert W. Wood
THE TAX LAWYER

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IRS Employment Tax Violations Can Be Criminal And Draw Prison Time



The IRS has always taken payroll taxes very seriously. A past Treasury Inspector General for Tax Administration [report](#) about serious employment tax crimes suggests that the IRS is right to do so, and could even do more heavy enforcement. Employment tax embezzlement is a felony punishable by up to five years in prison, and the report urged the IRS Criminal Investigations Division pursue these crimes. For anyone with employees, paying employment taxes is inevitable.

You withhold taxes from employee pay, then send the money to the IRS. The taxes are withheld from wages and are supposed to be promptly paid to the government. This is trust fund money that belongs to the government, and no matter how good a reason the employer has for using the money for something else, the IRS is strict. If you are in business, it can be tempting to figure that you have to keep the rent paid and the supplies ordered, and that the IRS won't miss the payroll tax money if you just divert it temporarily.

Consider A Payroll Service

You never want to become delinquent in paying taxes, *especially* employment taxes. The IRS is vigorous in enforcement. It is one reason that in cases where the IRS catches the problem early, the IRS may encourage use of a payroll service. If the payroll service *automatically* takes out and remits all the payroll taxes, the business won't have the discretion to divert the money, even briefly. When a tax shortfall occurs, the IRS will usually make personal assessments against all responsible persons who have ownership in or signature authority over the company and its payables. The IRS can assess a [Trust Fund Recovery Assessment](#), also known as a 100-percent penalty, against every "responsible person" under [Section 6672\(a\)](#).

Innocent Mistake?

If you are a responsible person, the IRS can pursue you *personally* if the company fails to pay. You can be liable for the 100% civil penalty even if have [no knowledge](#) that the IRS is not being paid. The 100% penalty equals the taxes not collected. The penalty can be assessed against multiple responsible persons, allowing the IRS to pursue them all to see who coughs up the money first. "Responsible" means officers, directors, and anyone who makes decisions about who to pay or has check signing authority.

Criminal Violations Too

As if paying a 100% penalty was not bad enough, there is criminal liability for willful violators. Employers are required to collect and pay over to the Internal Revenue Service (IRS) taxes withheld from their employees' wages. This applies to withheld federal income tax and the employees' share of social security and Medicare taxes. In addition, employers have an independent responsibility to pay the *employer's* share of these payroll taxes.

A good recent example involved the owner of a Denver, Colorado [bridal studio](#), Donna M. Savoy. She recently pleaded guilty to willfully failing to pay over employment taxes for more than a decade. According to court documents, owned and operated Donna Beth Creations, a bridal studio in Denver. She was responsible for withholding Social Security, Medicare and income taxes from her employees' wages, paying those funds over to the IRS and filing quarterly employment tax returns.

For 2014 through 2024, Savoy admitted that she withheld taxes from employee wages but willfully failed to pay them over to the IRS. She also failed to file employment tax returns for that entire period. According to her plea

agreement, she spent the withheld taxes on personal and business expenses. The tax loss to the United States exceeded \$1.3 million. She is scheduled to be sentenced on June 15, 2026, and faces a maximum penalty of five years in prison.