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THE TAX LAWYER

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### IRS Pursues Payroll Tax Pyramiding

You may think the IRS pursues all taxes equally but they don't. The IRS is especially vigorous in going after payroll taxes withheld from wages that somehow don't get paid to the government. This is trust fund money that belongs to the government and was withheld from wages.

That makes any failure to pay—or even late payment—much worse. In fact, that's so regardless of how or why the employer or its principals use the money. See [No Get-Out-Of-Jail-Free Card For Payroll Tax Liability](#).



When a tax shortfall occurs in this setting, 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.” See [Section 6672\(a\)](#). You can be responsible and therefore liable even if have no knowledge the IRS is not being paid. See [What Is The Trust Fund Recovery Penalty?](#)

When multiple owners and signatories all face tax bills they generally squabble and do their best to sic the IRS on someone else. Factual nuances matter in this kind of mud-wrestling, but so do legal maneuvering and just plain savvy. One responsible person may get stuck

while another who is even more guilty may get off scot-free. See [Supreme Court Deaf To Payroll Tax Woes](#).

Meanwhile, the government will still try to collect from the company that withheld on the wages. The IRS also wants to make sure this kind of bad tax situation doesn't occur again. In extreme cases the government may seek criminal penalties. See [Employers Who Violate Tax Law May Go To Jail](#).

More commonly, the government may seek to enjoin this behavior. For example, take Advanced Underground Construction, an Iowa-based company, and its principal, William David Ward II. The Justice Department is [seeking an injunction](#) against both, alleging the company repeatedly failed to pay federal employment taxes withheld from wage checks, the amount now due exceeding [\\$370,000](#).

The company is using the withheld taxes as working capital, the suit claims. This practice is sometimes referred to as "[pyramiding](#)." The DOJ notes that the company has made minimal payments of its tax debts, and that attempts to induce voluntary compliance have failed.

To stop the bleeding, the Justice Department is seeking an injunction to require the company and Ward to timely deposit and pay all withheld employment taxes and to timely file all employment tax returns.

For more, see:

[IRS Narrows Independent Contractor Relief](#)

[Careful: You Can't Renege On Settlement With IRS](#)

[IRS Nightmare: What Employment Taxes?](#)

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

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

[Beware Personal Liability For Employee Taxes](#)

[Choose Your Ground In Tax Disputes](#)

## [Internal Revenue Bulletin 2005-24](#)

### [Beware Personal Liability For Employee Taxes](#)

### [IRS Warns Businesses, Individuals to Watch for Questionable Employment Tax Practices](#)

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