

# The Professional Edge

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## You Could be Personally Responsible for Your Company's Federal Payroll Tax Liabilities

### Trouble crops up

It can happen to even the most well-run businesses. A couple of prime accounts unexpectedly go sour. Money gets tight. It doesn't seem like a big problem. Start getting those receivables in a little faster, beat the bushes for some new business and things will right themselves in another month or two.

But in the meantime, there's a cash flow problem.

### Seemingly small risks

Too often, businesses looking for a little short-term financial breathing room make the mistake of letting the Federal Government slide. For businesses in trouble, Trust Fund taxes (so-called because the employer must withhold them from employees and place them in "trust" for the Federal Government) are a too-tempting source of funds.

"We see it all the time," says Joseph Cipolla, CPA/EA, president, Tax Help Associates. "Otherwise good business owners watch their companies get financially strapped and use Trust Fund money to pay operating expenses. Usually, they figure the picture will be brighter in a month."

Unfortunately, says Joseph, too often one month turns into two and "seemingly out of the blue" the company's Federal Payroll Tax liability has gotten out of control.

### IRS may decide it's your responsibility to pay

No matter how innocently the company's financial trouble appears, simply put, the IRS wants their money and there is more than one way for them to get it. Could you be personally responsible for your company's debt? Possibly. In fact, you could be personally responsible for 100 percent of the uncollected tax.

There are two criteria (they must exist simultaneously) the IRS will use to determine if you're responsible for your company's Trust Fund debt.

- **Responsibility:** was it your duty to collect, account for and pay over the tax? Did you sign checks, negotiate contracts, obtain credit for the company and sign payroll returns?

- **Willfulness:** did you voluntarily pay other creditors while you knew the tax was due?

Often times, the answers to these seemingly straightforward questions are not as simple as the Revenue Officer would like to think. For instance, the IRS can determine that the sheer fact that you were responsible means you're willful. After all, how could you not know? Tax Help Associates' staff of professionals know that it's not always that simple.

Also, "sometimes, when corporate officers are busy pointing fingers at each other, the Revenue Officer just assumes that all corporate officers are responsible," says Joseph. "But there are ways to appeal," he adds. While being incorporated protects you from personal liability in most cases, it doesn't prevent the IRS from collecting withheld (trust fund) taxes, even if the corporation is out of business.

### Tax Help Associates is in your corner

"Without a tax professional in their corner, sometimes people don't know how to present their side of the story to the IRS," says Joseph. "At Tax Help Associates, most of us measure our IRS experience in decades. We know what the IRS looks for." But, it's not like negotiating a typical business contract. You need a professional in your corner who will question the IRS every step of the way.

Let the experienced professionals at Tax Help Associates face the IRS with you. We've saved clients thousands of dollars in taxes and penalties. In fact, many people who thought they were doomed have left our offices owing the IRS nothing at all. We're not claiming it's always the case, but having Tax Help Associates on your side is always better than going it alone.