

**IRS****News Release****Media Relations Office****Washington, D.C.****Tel. 202.622.4000****For Release: 2/12/01****Release No: IR-2001-18****IRS ISSUES CONSUMER ALERT TO WATCH FOR EMPLOYERS  
FAILING TO WITHHOLD TAXES**

WASHINGTON - The Internal Revenue Service issued a consumer alert today involving illegal schemes where employers do not withhold federal income tax or employment taxes from wages paid to their employees.

These schemes are based on an incorrect interpretation of the Internal Revenue Code that wages are not a "source" of income and that the definition of "sources of income" does not apply to U.S. individuals. This incorrect interpretation is contrary to the express language of the Internal Revenue Code and its regulations. The interpretation has been refuted in court.

If you have concerns that your employer is improperly failing to withhold federal income and employment taxes, you can contact the IRS at 1-800-829-1040.

The IRS has seen a small number of these cases involving employers in recent months. The agency is actively investigating cases where employers fail to withhold income taxes and employment taxes (Social Security and Medicare taxes).

"We are pursuing these cases to uphold the law and make sure everyone pays their share," IRS Commissioner Charles O. Rossotti said. "We don't want to see taxpayers caught in a bind because employers fail to properly withhold taxes."

"The law is crystal clear that income and employment taxes must be paid," said Joe Kehoe, Commissioner of the IRS Small Business and Self-Employed Division. "Evading employment taxes can have serious consequences. Employers may be subject to criminal and civil sanctions for willfully failing to pay employment taxes."

Unscrupulous individuals and promoters have used a variety of false or misleading arguments for not paying employment taxes. The courts have repeatedly rejected these arguments as frivolous and routinely impose financial penalties when such meritless arguments are raised.

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"IRS Criminal Investigation works closely with the other IRS operating divisions to investigate and refer for prosecution individuals and companies who have willfully failed to file or pay employment taxes," said Mark Matthews, IRS Criminal Investigation Chief. "Each year, Criminal Investigation obtains significant criminal convictions for such violations, most of which involve incarceration and fines."

In the past three years, 127 individuals have been sentenced to confinement in either federal prison, a halfway house, home detention or some combination thereof on employment tax issues. Nearly 86 percent of the persons sentenced for evading employment taxes served an average of 17 months confinement and were ordered to make restitution to the government for the taxes evaded (plus interest and penalties.)

Recent examples of employment tax prosecutions can be found on the IRS Criminal Investigation website at [www.ustreas.gov/irs/ci/tax\\_fraud/docemploymenttax.htm](http://www.ustreas.gov/irs/ci/tax_fraud/docemploymenttax.htm)

In cases where your employer withheld employment taxes but failed to deposit them, or failed to issue W-2s, you should contact the employer to request the W-2. If you are unable to secure a W-2 from your employer, you should complete and attach Form 4852, *Substitute for W-2*, to your tax return using the best data available to calculate the wages and the withholding. This information can often be secured from pay stubs.

In addition, if your employer refuses to withhold employment taxes from your wages and the IRS is unable to collect the employment taxes from your employer, you still have the responsibility to pay income tax and you are ultimately responsible for your share of the FICA tax.

You can get additional help by calling the IRS at 1-800-829-1040. Forms can be found on the IRS Web site at [www.irs.gov](http://www.irs.gov).

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