
Session Five:

Enforcement Strategies



2010 IRS Research Conference

Collecting Collected Taxes

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Big Companies Generally Pay Collected Taxes



Typical Businesses Failing to Pay Collected Taxes



Actual Business Failing to Pay



East Coast Landscape Design
your exterior decorator



- <http://www.tax.virginia.gov/site.cfm?alias=delinquentdebtors>

Small Business References Provided By IRS

- Publication 4591: Small Business Federal Tax Responsibilities
- Publication 15: Employer's Tax Guide
- Publication 505: Tax Withholding & Estimated Tax
- Publication 334: Tax Guide for Small Business
- Approximately 13 additional Publications



Excerpt from Circular E (page 25 of 73)

Trust fund recovery penalty. If federal income, social security, and Medicare taxes that must be withheld are not withheld or are not deposited or paid to the United States Treasury, the trust fund recovery penalty may apply. The penalty is the full amount of the unpaid trust fund tax. This penalty may apply to you if these unpaid taxes cannot be immediately collected from the employer or business. The trust fund recovery penalty may be imposed on all persons who are determined by the IRS to be responsible for collecting, accounting for, and paying over these taxes, and who acted willfully in not doing so.

A **responsible person** can be an officer or employee of a corporation, a partner or employee of a partnership, an accountant, a volunteer director/trustee, or an employee of a sole proprietorship. A responsible person also may include one who signs checks for the business or otherwise has authority to cause the spending of business funds.

Willfully means voluntarily, consciously, and intention- ally. A responsible person acts willfully if the person knows the required actions are not taking place.



Disclosure

- Privacy vs. Transparency
- Benefits vs. Burdens





Collecting Collected Taxes Proposals

- Publicize Returns Reporting Collected Taxes
- Create Structures to Funnel Entrepreneurial Businesses into Compliance
- Change Responsible Officer Provisions to Allow Interest & Penalties to be Charged Against Responsible Officer



Making Trust Returns Public

- Reform Employment & Excise Returns to Include Only Trust Information
- Publish All Trust Returns



In Whom We Trust Proposals

- Self Identification of Responsible Officers
- Incentives for Small Businesses to Timely Pay Collected Taxes
- Require Bonds of Individuals or Entities with History of Failure to Pay Collected Taxes
- Eliminate the Withholding & Social Security Credit for Responsible Officers who Fail to Pay the Entity's Employment Taxes
- Create an Incentive for the Responsible Officers to Pay § 6672 Liability When More than One Responsible Officer Exists



Leaving Money on the Table Proposals

- Remove § 6672 from the Assessable Penalty Provisions
- Make Clear in IRC that Interest Charges Against the Individuals Responsible Accrue from the Due Date of Corporate Return



Conclusion

- Transparency
- Structure
- Accountability

