



Appeals

IRSNationwide

Tax FORUM
2012

Trust Fund Recovery
Penalty; *Do You Know
How to Navigate Appeals
Examination When the
Stakes are High?*





Appeals Mission

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To resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service.





Accomplishing the Mission

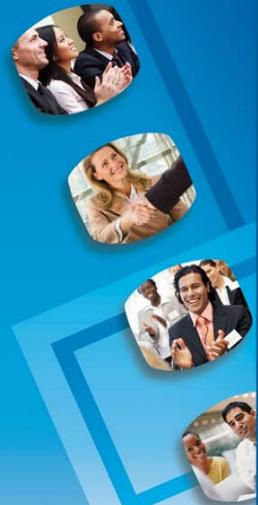
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Listening and considering both sides

Considering and evaluating all arguments and available information

Independently determine the best settlement by weighing the hazards of litigation





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What are Trust Fund Taxes?

Income tax withheld from employee

Social Security & Medicare withheld from employee

Matching amounts of SS/Medicare from employer

Total Employment taxes

Income tax withheld from employees

Social Security & Medicare withheld from employee

Trust Fund taxes





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HANDMADE CRAFT FAIRS, INC
99 EASY MONEY LANE
DISPUTE, KY

EMPLOYEE NAME
Billy Ray Duke

EMPLOYEE SSN
987-XX-XXXX

EARNINGS
Regular Pay

HOURS
40

RATE
\$25.00

WITHHOLDINGS/DEDUCTIONS
Social Security
Medicare
Federal Income Tax

CURRENT
AMOUNT
\$62.00
\$14.50
\$200.00

YEAR TO DATE
\$1,612.00
\$377.00
\$5,200.00





Form 941 for 2008: Employer's QUARTERLY Federal Tax Return

950108

(Rev. January 2008)

Department of the Treasury — Internal Revenue Service

OMB No. 1545-0029

Report for this Quarter of 2008 (Check one.)

- 1: January, February, March
- 2: April, May, June
- 3: July, August, September
- 4: October, November, December

(EIN) Employer identification number **9 9 - X X X X X X X**

Name (not your trade name) **HAND MADE CRAFT FAIRS, INC**

Trade name (if any) _____

Address **99 EASY MONEY LANE**
Number Street Suite or room number

DISPUTE **KY** _____
City State ZIP code

Read the separate instructions before you fill out this form. Please type or print within the boxes.

Part 1: Answer these questions for this quarter.

1	Number of employees who received wages, tips, or other compensation for the pay period including: <i>Mar. 12</i> (Quarter 1), <i>June 12</i> (Quarter 2), <i>Sept. 12</i> (Quarter 3), <i>Dec. 12</i> (Quarter 4)	1	20
2	Wages, tips, and other compensation	2	50,000
3	Total income tax withheld from wages, tips, and other compensation	3	10,363
4	If no wages, tips, and other compensation are subject to social security or Medicare tax	<input type="checkbox"/>	Check and go to line 6.
5	Taxable social security and Medicare wages and tips:		
	<i>Column 1</i>	<i>Column 2</i>	
5a	Taxable social security wages 50,000	$\times .124 =$ 6,200	
5b	Taxable social security tips 0	$\times .124 =$ 0	
5c	Taxable Medicare wages & tips 50,000	$\times .029 =$ 1,450	
5d	Total social security and Medicare taxes (<i>Column 2</i> , lines 5a + 5b + 5c = line 5d)	5d	7,650.00
6	Total taxes before adjustments (lines 3 + 5d = line 6)	6	18,013
7	TAX ADJUSTMENTS (read the instructions for line 7 before completing lines 7a through 7g):		

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IRC Section 6672

Responsible and Willful

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Responsible:

(Required to collect truthfully account for and pay over the tax)

Status

Duty

Authority

Not knowledge

Indicia of Responsibilities:

Officer or mentor of board

Own shares or entrepreneurial stake

Active in day-to-day management

Ability to hire/fire

Decisions on what debts to tax

Control over daily bank accounts/ records

Check-signing authority

Willful:

(Voluntary, Conscious, Intentional)

Paying other creditors

Failure to investigate

Failure to correct mismanagement

Reckless disregard for obvious or known risks





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Facts

IRC 6672 –

100% Penalty based on failure to withhold and pay over trust fund taxes

Quarters ended 06/30/08, 09/30/08, 12/31/08

Proposed assessment is \$29,296.41

Taxes are proposed against each of the four individuals involved in running HCF Inc. for these periods- \$14,188 for June, \$12,188.41 for Sept, and \$3,000 for Dec.





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Statute of limitations

For the quarters involved in our scenario, the due date of each is 4/15/2009

The statute of limitations for each is therefore three years from the due date
This would be 4/15/2012

We extend the statute using Form 2750 and the statute on this case is 4/15/2013





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A Word about Mediation

Fast Track Mediation- a nationwide program to facilitate agreement within 30-40 days

Full appeal rights retained even if no agreement reached

Request mediation when R/O first proposes the TFRP

However, it will not extend or suspend the 60-day appeal period on TFRP cases.





Who is who?

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Elvis-prepared 941-no authority to pay
Wally-president, 60% owner, signatory
authority on bank account

Susie-40% owner, could sign checks, ran
business until summer

John-son of Susie, general manager,
signed checks

Mary-now ex-wife of John, signed some
checks, worked in office





The Taxpayers

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Wally Duke



Mary Duke



Susie Duke



John Duke



Elvis Booker





What is at Issue?

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Quarterly liabilities 200806, 200809,
and 200812

Recommended against all

Wally, Susie, Mary, Elvis filed
appeals

John did not





Scenario 1

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Mary Duke





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Power of Attorney

Form 2848

How to specify the period





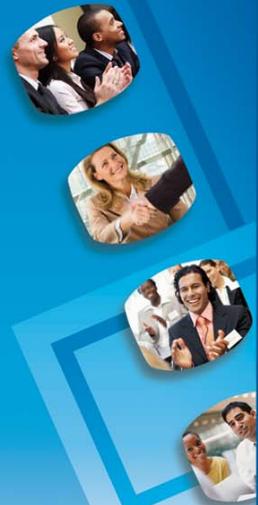
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Scenario 2



Elvis Booker





Scenario 3

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Wally Duke



Susie Duke





How can you help your client?

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Encourage those having financial difficulties to pay taxes ahead of everything

Consider bringing client to Appeals hearing

Be prepared

– Research case law





For more information...

Visit Appeals at www.irs.gov/appeals

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Individuals Topics

- Abusive Tax Shelters
- Appeal a Tax Dispute
- Taxpayer Rights
- Online Payment Agreement
- Paying a Balance Due
- More Topics...

IRS Resources

- Compliance & Enforcement
- Contact My Local Office
- e-file
- Forms and Publications
- Newsroom
- Frequently Asked Questions
- Taxpayer Advocate Service
- Where To File

Appeals... Resolving Tax Disputes

What Can Appeals Do for You?
The Appeals mission is to resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service.



Is Appeals the Place for You?
Appeals resolves over 100,000 cases per year.

Are You Ready to Request an Appeals Conference or Hearing?
You can identify and explain the issues in dispute.

Preparing a Request for Appeals
You're ready to file a protest. Here's the information you will need.

What Can You Expect from Appeals?
Appeals will take a fresh look at your case and make a fair and impartial decision.

Appeals Online Self-Help Tools
These are interactive tools that guide you to an outcome based on answers you provide. They deal with some of the most frequently encountered problems, such as: a rejection of a request for innocent spouse relief; denial of a request for abatement of certain delinquency penalties; and rejection of an Offer in Compromise.

- Online Videos and Podcasts of the Appeals Process**
Check out videos and podcasts on what to expect in the Appeals process.
- Forms and Publications about Your Appeal Rights**
Official IRS resources about the Appeals process and your rights as a taxpayer...
- Careers with Appeals**
Rewarding opportunities, excellent benefits, and great people.
- Examination**
Appealing Examination Issues
- Collection**
Appealing Collection Issues

Alternative Dispute Resolution
There are ways to resolve tax issues faster.

Technical Guidance-International Programs
Compliance Coordinated Issues, Appeals Coordinated Issues, Appeals Emerging Issues

Art Appraisal Services
Taxpayer cases selected for audit containing artwork are referred to the Art Appraisal Services for review by an Art Advisory Panel.

