

Office manager liable for \$2.9 million in payroll taxes

The closest office managers usually get to Payroll are their own paychecks. But beware. A federal trial court has ruled that an office manager was personally liable for 100% of her company's undeposited payroll taxes, to the tune of \$2.9 million. (*Miller v. U.S., No. 3:13-cv-00728, 2014*)

Many hats, one huge liability. Under tax code Section 6672, any *responsible person* who *willfully* fails to remit a company's payroll taxes can be held 100% liable for those taxes. A responsible person is anyone, not just corporate officers, who has some financial control over the company's finances (e.g., check-writing authority). The element of willfulness is equally easy to satisfy. It generally entails simply paying other creditors before you pay the IRS.

An office manager was delegated financial responsibilities, including billing clients, collecting accounts receivable, making bank deposits and writing checks to creditors. She also prepared and signed the company's Forms 941 and participated in the day-to-day running of the company, including hiring, firing and setting employees' compensation.

Although she knew that the company hadn't deposited its payroll taxes over a four-year period beginning in 2006, she continued to pay other creditors. The IRS first assessed the \$2.9 million in undeposited payroll taxes against the company's president. It then went after the office manager for the same amount.

IRS: The office manager was a responsible person who willfully failed to deposit the taxes. A federal trial court agreed.

Court: The office manager was a responsible person under the law, since she had the effective power to pay the taxes.

THE TAKEAWAY: If you suspect that the company isn't meeting its tax deposit responsibilities, you should take the matter up with management. Then try to arrange with the IRS for the tax deposits to be made. Be sure to write a memo to yourself about your efforts. If management is still unresponsive, you may have no choice but to look for another job.