

IRS ramping up 100% penalties for payroll tax violations

Under tax code Section 6672, the IRS can assess you personally for 100% of your company's undeposited payroll taxes, if you're a responsible person who willfully failed to deposit those taxes.

The Treasury Inspector General for Tax Administration (TIGTA) has made five recommendations to the IRS on improving the Sec. 6672 assessment process. *Bad news:* The IRS has agreed to implement four of them. *Bottom line:* Expect more 100% penalty assessments.

With great responsibility comes great risk. All you need to become a "responsible person" subject to liability is some check-signing authority; you don't need to be a corporate officer or the company's only responsible person. And all it takes to "willfully" fail to deposit your company's payroll taxes is to pay other creditors before paying the IRS, even if paying those creditors means the company can stay afloat.

TIGTA reviewed two statistical samples of individuals with outstanding 100% penalty assessments—100 cases that were assigned to revenue officers and 100 cases that weren't assigned. TIGTA: On average, the IRS took longer than 15 months to assign cases to a revenue officer for collection. Moreover, only 34% of the assigned cases were given to the same revenue officer who tried to first collect the taxes from the company.

TIGTA made five recommendations, which will beef up 100% penalty assessments:

- When possible, the same revenue officer should work both the business and individual tax accounts, and the assignment should be made promptly. *IRS:* Agreed. The Internal Revenue Manual (IRM) will be revised to reflect this recommendation.
- Tax liens should be used on a more frequent and consistent basis. *IRS:* Agreed. The IRM will be revised to more clearly stress the use of tax liens.
- The IRS needs to improve the process under which revenue officers assess the penalty, so that the IRS Appeals Function can timely respond to taxpayers. *IRS:* Partially agreed; technological constraints, however, hinder implementation.
- Revenue officers must timely complete assessment paperwork. *IRS:* Agreed. Revenue officers' group managers will ensure that a 100% penalty checklist is completed.
- The IRS Appeals Function needs to improve processing revenue officers' penalty recommendations. *IRS:* Agreed. The IRS will determine if an interface between the Appeals Centralized Database System and the automated penalty system is feasible to systemically notify the appropriate offices when Appeals makes a penalty determination.

A step-by-step [payroll](#) compliance guide to each pay period, month and calendar quarter of the year is now available. Download it free [here](#).