# Bad people doing payroll

It’s almost mid-summer and we have our mid-summer blues. So maybe a little humor, with a side of seriousness, will raise everyone’s spirits. *The serious part:* Take these as lessons in what not to do and who not to hire.

**Payroll Ponzi scheme**

You know Ponzi schemes—take money from people to pay back earlier “investors” and up the pyramid you go, until there aren’t any more rubes to tap and the entire scheme collapses.

Well, in the payroll version, an accountant operated a business, called Payroll Professionals, Inc. He prepared false Forms 941 for his clients, which were mostly small to medium-sized businesses.

*His fraud:* He reported depositing more in taxes than was actually sent to the IRS. Three of his clients collectively underpaid more than $3 million during the years at issue. He hid his thievery from his clients by presenting bogus documents that purported to confirm that their taxes had been paid in full.

*His Ponzi scheme:* He borrowed one client’s tax money to pay the debts of another. His scheme collapsed when the interest and penalties owed to the IRS became too big to hide.

*His comeuppance:* He’s under indictment and if convicted, faces up to 54 years in prison, and assuming that’s not already a life sentence, a year of supervised release and $1.8 million fine.

*Advice for you:* He was able to keep his scheme going for as long as he did because he redirected his clients’ mail. There’s nothing wrong with hiring a third party to handle your payroll taxes. But you should never sign blank tax returns or allow your third party to redirect your mail. The IRS has a procedure to confirm mail redirects and you should take that seriously.

**One for you, 19 for me**

Another accountant (what is it with accountants?), who was already on probation under an administrative order from the Colorado Board of Accountancy, fleeced his clients out of more than $11 million in payroll tax deposits. He used that money for his own purposes.

After the scheme was discovered, he pleaded guilty to wire fraud and aiding in the preparation of a false tax return. At sentencing, the trial court enhanced his sentence. He appealed the enhancement, arguing that his conviction for fraud was unrelated to the conduct that was the subject of the administrative order—namely, professional negligence.

A federal appeals court upheld the sentence enhancement. *Court:* The trial court didn’t err in enhancing the sentence, even though the administrative order lacked an explicit injunction against committing fraud. The administrative order was reasonably calculated to prohibit conduct that was the same as or similar to his subsequent offense, the court concluded.

*Advice for you:* What broke this case open were the numerous complaints made by his clients to the state accountancy board. Don’t be shy if you think there’s something wrong.

Also, the IRS maintains lists of tax pros who have been disciplined. Point your browser here for more information.

**Needed: Internal controls**

It’s often said that the person who handles the payroll shouldn’t be the same person who balances the books. And with good reason—it’s easier for embezzlers to cover their tracks if they’re in charge of the whole rodeo.

One small nonprofit found this out the hard way when the bookkeeper it hired ripped off more than $250,000 in payroll deposits.

*How the scheme was eventually uncovered:* payroll checks began to bounce.

The Tax Court threw the book at the embezzler and her husband.

*Advice for you*: Small companies often can’t split payroll duties between employees. If that’s case, you should hire an outside CPA (an honest CPA, of course) to review your books on a regular basis.


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