



Department of the Treasury
Internal Revenue Service

Notice 784 (Rev. February 1993)

Could You be Personally Liable for Certain Unpaid Federal Taxes?

If you are an employer, you must withhold federal income, social security (or railroad retirement), and Medicare taxes from your employees' wages or salaries. If you provide communication or air transportation services, you also may have to collect certain excise taxes from people who paid you for the services. (Get Pub. 510 for more information on excise taxes.)

These taxes are called trust fund taxes and must be paid to the Internal Revenue Service through tax deposits or as payments made with the applicable returns.

The trust fund recovery penalty.—If trust fund taxes willfully aren't collected, not truthfully accounted for and paid, or are evaded or defeated in any way, we may charge a trust fund recovery penalty. This penalty is equal to the amount of the trust fund taxes evaded, not collected, not accounted for, or not paid to IRS. We also charge interest on the penalty.

Who has to pay the penalty?—The trust fund recovery penalty may apply to a person or persons IRS decides is responsible for collecting, accounting for and paying the trust fund taxes and who acted willfully in not doing so. If IRS can't immediately collect the taxes from the employer or business, we will decide who the **responsible** person or persons are and who acted **willfully**.

"Willfully" means voluntarily, consciously, and intentionally. A responsible person acts "willfully" if this person knows that the required actions are not taking place for any reason. Paying other business expenses instead of trust fund taxes is considered willful behavior.

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