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Civil and Criminal Employment Tax Enforcement Efforts — Employers Beware

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Buckle Your Seatbelts:

The IRS and Department of Justice Tax
Division are on the Hunt

In the current environment, there is no such
thing as a typical run of the mill employment
tax case



Buckle Your Seatbelts

- Knowledge shown by:
 - IRS Revenue Officer interviews with your client, explains what a responsible person is, warns against paying other creditors before paying employment taxes, and specifically informs the client of the duty to file and pay employment taxes
 - Beware of IRS Form 4180 signed by taxpayer a/k/a admissions a/k/a confession
 - Letter 903 (with Notice 931) will be sent out each quarter
 - » Multiple trial exhibits and counts
 - Responsible person fails to pay employment taxes and claims withholding on their own personal tax return anyway
 - Inability to pay the bills does not negate knowledge or willfulness
 - Prior TFRP violation (serial employment tax abuser)
 - Payment of TFRP does not negate knowledge or willfulness on continuing liability

See Caryn D. Finley, attorney (criminal enforcement section, Southern Region) DOJ Tax Division December 11, 2015 Remarks 2015 TNT 240-4 (December 14, 2015) Civil Employment Tax Enforcement aids Criminal Enforcement.

Why Are Employment Taxes in Vogue Once Again?

- Why? Follow the money
 - In looking at tax enforcement, DOJ Tax and the IRS are on track with their attacks on offshore noncompliance and tax shelters while they are stemming the flow of improper refunds due to ID theft
 - So where is the next pot of money? The answer is simple—in old fashioned employment tax violators
 - Back in September 2015, the cumulative amounts of unpaid Forms 941 was \$59 billion

Why Are Employment Taxes in Vogue Once Again?

- Employment tax violators come in all shapes and sizes
 - Simple professionals who fail to pay their own employment taxes
 - Business owners who do not pay the employment taxes of all their employees while using a host of tools to conceal their efforts
 - Big fish of employment tax abuse: employee leasing/professional employer organization (PEO) companies have the ability to amass huge liabilities on behalf of a number of companies in a short period of time

Why Are Employment Taxes in Vogue Once Again?

- While a business owner who fails to pay the IRS employment taxes may consider it a simple paper-free loan from the government, the government considers it to be theft



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