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EMPLOYMENT TAX BRIEF

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OVERVIEW OF EMPLOYMENT TAXES

Employers are required to withhold employees' portions of Social Security and Medicare taxes from their pay, and to match the amount withheld. The Social Security tax is imposed at the rate of 6.2% of wages; the Medicare tax is imposed at the rate of 1.45% of wages. Therefore, 12.4% of wages are required to be paid into the Social Security fund, and 2.9% are required to be paid into the Medicare fund, totaling 15.3% of wages.

WHEN EMPLOYMENT TAXES ARE NOT PAID

- The Internal Revenue Code imposes a 100% penalty against “responsible persons” who “willfully fail” to withhold the tax from an employee’s wages and pay them into the Social Security and Medicare funds.
- This 100% “Trust Fund Recovery Penalty” is a collection device used to force compliance from those individuals responsible for the failure of the employer to pay into the funds.
- The I.R.S will attempt to collect these taxes from responsible persons if the tax liability is not satisfied by the business.
- The I.R.S. is not required to attempt collection from the business before assessing a responsible person because the trust fund penalty is separate and distinct from the tax liability of the business.
- Congress decided to enact such a harsh recourse against those responsible for the failure because each employee receives credit for the amounts withheld for purposes of calculating these taxes, regardless of whether the employer actually pays those amounts into the funds.

**IF YOUR COMPANY HAS NOT PAID THESE TAXES,
YOU MAY BE A TARGET FOR THE I.R.S.**