

San Antonio

CONSTRUCTION NEWS

The Industry's Newspaper

www.constructionnews.net ★ (210) 308-5800 ★ Volume 22 ★ Number 12 ★ DECEMBER 2019

ACCOUNTING



When to consider outside payroll help

Steven Bankler, Owner
Steven Bankler, CPA, Ltd.
San Antonio, TX

Every thriving business experiences growing pains when it comes to “keeping the books” at some point. It doesn’t take much for payroll and other expenses to get complicated. In fact, one of the first things we do when small businesses hire us is to help the business owners regain control of their books and payroll. Doing so can help you find money you’ve left on the table. It can help you avoid steep IRS penalties and even criminal prosecution, too.

The IRS assesses about **6 million civil penalties amounting to over \$6 billion dollars** for employer payroll tax issues each year. Some of these violations are due to what the IRS considers a **“willful” failure to pay** or even a **“reckless disregard”** for not acknowledging when bookkeeping is being mismanaged. Either way, the IRS can hold business owners and every other person responsible for running the business or distributing payroll personally accountable by doling out individual trust fund recovery penalties and, sometimes, even criminal charges.

It’s the federal government’s way of saying “you should have known better” and it can result in years of personal financial turmoil and even prison time. The **Journal of Accountancy reports** that 128,000 individuals are currently facing outstanding trust fund recovery penalties due to a failure to pay payroll taxes. The penalties average \$93,750 a person.

Of course, this is the worst-case scenario of not being on top of your payroll. But mistakes can begin mounting and the worst can happen in the blink of any eye. It’s during the following stages payroll can become unmanageable:

1. During rapid business growth. When a business grows rapidly, the owner sometimes has no choice but to trust newly designated employees to stay on top of the books for them—often with little to no oversight. That can lead to big problems down the road. Inexperienced payroll administrators often put employment taxes at the bottom of the list of bills to pay when cash flow is low, assuming it’s more important to pay employees and vendors. Those decisions can lead to a steep trust fund recovery penalty for all involved: the administrator and the business owner alike.

2. While expanding outside your usual jurisdiction. Are you taking on multistate or out-of-state projects? Employees are generally subject to the income tax withholding of the state in which they work (not the state in which the employer is located) so, unless your in-house payroll manager is an expert in every state and jurisdiction’s income tax laws, employing out-of-state workers can get very complicated very quickly. Add localized employment laws like overtime and discrimination rules, and the logistics and HR issues of managing remote workers become exponentially more complicated.

3. When adding to your temporary labor force. The IRS has a keen eye on temporary labor—especially for those in the construction industry—since employment violations are common. Making workers independent contractors and responsible for their own payroll taxes when they should be classified as employees, for instance, is one area the IRS watches closely. The IRS will also crosscheck Form I-9s against payroll tax submissions to uncover violations such as paying workers in cash “off the books.”

4. When upgrading to the latest payroll systems. Moving to a paperless payroll system—which can include direct deposit, digital timesheets, automated tax filings and other efficiencies—can save you and your employees time and effort. But it can also lead to data security issues and other oversights if not handled correctly. “I thought it was happening automatically” isn’t a great excuse when facing IRS scrutiny.

5. As paperwork requirements become overwhelming. Construction businesses are often required to submit additional forms many other businesses don’t need to worry about. U.S. Department of Labor WH-347 forms for federally funded jobs, union reporting, job cost reporting and more often come with the territory in addition to I-9 Forms and other payroll and employee onboarding paperwork. As a construction business owner “in the weeds” on these tasks, you may overlook other payroll and financial issues that need your attention.

Enlisting outside assistance, whether from a full-service payroll provider or a more traditional CPA or bookkeeping firm, can help you avoid payroll and other federal violations due to the above complications. But, **the IRS warns**, it’s important to work with a reputable company and to keep the following points in mind:

- You (the employer) are ultimately responsible for the tax liabilities. If the third party fails to make payments, you’re liable, not the third party.
- Don’t change your address of record to the payroll provider. If there are any issues with your account, you’ll want the IRS to notify you, not them (so you’re not potentially left in the dark).
- Be sure your payroll provider uses EFTPS (Electronic Federal Tax Payment System). You should also register on the EFTPS system to get your own PIN and use that PIN to periodically verify payments.

“There have been recent prosecutions of individuals and companies who, acting under the guise of a payroll service provider, have stolen funds intended for payment of employment taxes,” the IRS states on the small business and self-employed section of its website. “Remember, employers are ultimately the parties responsible for the payment of income tax withheld and both the employer and employee portions of social security and Medicare taxes.”

Most of the time, employers are unaware that their bookkeeping is off until it’s too late. As the business owner, you have too much to lose not to seek out responsible, reputable payroll assistance and to pay attention to the books, no matter how well the business seems to be doing.

Steven Bankler has more than 42 years of experience in the accounting industry. Steven’s expertise lies in consulting, planning, tax, and asset protection as well as exit strategy services for closely held businesses. He also provides litigation support (both as a testifying expert witness and a consulting expert), business negotiations and estate planning. Visit www.bankler.com for additional tax strategy tips and to learn more about Steven Bankler, CPA, Ltd.