



Department of the Treasury
Internal Revenue Service
[Operating Division / Program Name]

Date:
08/12/2020
Employer ID number (last 4 digits):

Business name and address:

Person to contact:

Contact ID number:

Contact telephone number:

Contact fax number:

Dear:

Why we're sending you this letter

We haven't received full payment of the federal employment or excise tax liability due from the business listed above. Therefore, we're proposing to assess a penalty against you because you're required to collect, account for, and pay withheld taxes for the business. We listed the proposed penalties at the end of this letter.

Because you're required to collect, account for, and pay these taxes for a business, you can be personally liable for a penalty if the business doesn't pay the taxes. These are referred to as "trust fund taxes," and include:

- Employment taxes you withheld (or should have withheld) from the employees' wages.
- Excise taxes you collected (or should have collected) from customers.

The penalty we propose to assess against you is a personal liability called a Trust Fund Recovery Penalty. It's equal to the unpaid trust fund taxes that the business still owes.

If you agree with the proposed assessment

If you agree with this penalty for each tax period shown, sign Part 1 of the enclosed Form 2751, Proposed Assessment of Trust Fund Recovery Penalty, and return it to us in the enclosed envelope.

If you don't agree with the proposed assessment

You have the following options, described below:

- Contact the person listed at the top of the letter to try to resolve the matter informally.
- Send an appeal. There are two ways to appeal (a small case request or a formal written protest).

If you want to try to resolve the matter informally

If you have additional information to support your case and want to try to resolve the matter informally, contact the person listed at the top of this letter **within 10 days** from the date of this letter. If you write, include your telephone number, the best hours to reach you, and a copy of this letter to help us identify your account. Keep the original letter for your records.

Contacting the person listed on this letter will not extend the deadline on your appeal rights explained below.

When you call us, you can ask whether your case may also be eligible for Fast Track Mediation. See Publication 3605, Fast Track Mediation – A Process for Prompt Resolution of Tax Issues, available at www.irs.gov/forms-pubs.

If you want to appeal this determination

You have the right to appeal this action by filing a written protest. To keep your appeal rights, you need to mail or fax us your written appeal **within 60 days** from the date of this letter (75 days if this letter is addressed to you outside the U.S.). Below, we explain how you can make the request.

You can appeal your case to your local Appeals Office. Send your written appeal to the attention of the contact person at the address shown at the top of this letter. The proposed penalty amounts you're protesting determine how you should file your appeal.

For each period you're protesting, if the proposed penalty amount is:	You should:
\$25,000 or less	Send a small case request
More than \$25,000	Send a formal written protest

You can send one protest for all the periods listed on the Form 2751, but if the penalty for any one period is more than \$25,000, you must file a formal written protest. Include any information you want the Settlement Officer or Appeals Officer to consider. Providing more information will help us process your request quickly.

A small case request should include:

- A copy of this letter, or your name, address, Social Security number, and any information that will help us identify your file.
- A statement that you want an Appeals conference.
- A list of the penalties you disagree with and an explanation of why you disagree. Your explanation should address responsibility and willfulness in paying the trust fund taxes. Willfulness means an action was intentional, deliberate, or voluntary and not an accident or mistake. Therefore, you should explain your duties and responsibilities, including your duty and authority to collect, account for, and pay the trust fund taxes. If you disagree with how we calculated the penalty, you should list the dates and amounts of payments you believe we didn't consider or any computation errors you believe we made.

A formal written protest should include the items below. Pay particular attention to the sixth item and the note that follows it.

- Your name, address, and taxpayer identification number.
- A statement that you want an Appeals conference.
- A copy of this letter, or the date and number of this letter.
- The tax periods involved (see Form 2751).
- A list of the penalties you disagree with.
- A statement of fact, signed under penalties of perjury, which explains why you disagree. Include specific dates, names, amounts, and locations that support your position. Your explanation should also address responsibility and willfulness in paying the trust fund taxes. Willfulness means an action was intentional, deliberate, or voluntary and not an accident or mistake. Therefore, you should explain your duties and responsibilities, including your duty and authority to collect, account for, and pay the trust fund taxes. If you disagree with how we calculated the penalty, you should list the dates and amounts of payments you believe we didn't consider or any computation errors you believe we made.

Note: To declare that the above statement is true under penalties of perjury, you must add the following to your statement and sign it:

"Under penalties of perjury, I declare that I have examined the facts presented in this statement and any accompanying information, and, to the best of my knowledge and belief, they are true, correct, and complete."

- If you rely on a law or other authority to support your arguments, explain what it is and how it applies.

Representation

You can represent yourself at your conference or have someone who is qualified to practice before us represent you, such as an attorney, a certified public accountant, or an enrolled agent. If your representative attends a conference without you, they must file a Form 2848, Power of Attorney and Declaration of Representative, to receive confidential tax information, or Form 8821, Tax Information Authorization, to inspect confidential tax information. You can get either form at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If your representative prepares and signs the protest for you, they must substitute a declaration stating that:

- They submitted the protest and accompanying documents.
- They know personally that the facts stated in the protest and accompanying documents are true and correct.

Consideration by the courts

If your appeal does not result in your favor, we'll send you a bill. If you still disagree with us, you may then take your case to the United States Court of Federal Claims or to your United States District Court by following the procedures below. These courts have no connection with the IRS. Before you can file a claim with these courts, you must pay a portion of the tax liability and file a claim for refund, as described below.

Special bond to delay collection actions for any period as soon as you file a claim for refund

To ask that we delay collection of the penalty for any period as soon as you file a claim for refund for that period, you must do the following **within 30 days** from the date of the official notice of assessment and demand (the first bill) for that period:

- Pay the tax for one employee for each period of liability that you want to contest (if we based the penalty on unpaid employment taxes), or pay the tax for one transaction for each period that you want to contest (if we based the penalty on unpaid excise tax).
- File a claim for a refund of the amounts you paid using Forms 843, Claim for Refund and Request for Abatement.
- Post a bond with the IRS for one and one-half times the amount of the remaining penalty after you've made the required payments listed in the first item. Visit www.irs.gov/irm/part5/irm_05-006-001 for information regarding collateral agreements.

If the IRS denies your claim when you post this bond, you have **30 days** to file suit in your U.S. District Court or the U.S. Court of Federal Claims before the IRS can apply the bond to your penalty and the accrued interest.

Claim for refund with no special bond

If you don't file a special bond as described above, you can still file a claim for refund following the same steps, except you don't have to take the actions within 30 days after the date of the official notice of assessment and demand for the period.

If we haven't acted on your claim within 6 months from the date you filed it, you can file a suit for refund. You can also file a suit for refund within 2 years after we disallow your claim.

If we find that the collection of this penalty is in jeopardy, we can take immediate action to collect it without regard to the 60-day period for sending a protest.

For further information about filing a suit, you can contact the Clerk of your District Court or:

Clerk of the United States Court of Federal Claims
717 Madison Place NW
Washington, D.C. 20439

If we don't hear from you

If we don't hear from you **within 60 days** from the date of this letter (or 75 days if this letter is addressed to you outside the U.S.), we'll assess the penalty and begin collection action.

Information about the Taxpayer Advocate Service

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778. Note that seeking assistance from TAS does not suspend or extend the timeframe for filing a suit for refund.

Sincerely,

[Name]
Revenue Officer

SAMPLE

Enclosures:
Publication 1
Form 2751
Envelope

Tax period ending	Trust fund penalty	Tax period ending	Trust fund penalty