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### 3. Who can be assessed this penalty?

Anyone who participated in the operation of the business to the extent that he or she had authority and control over business funds, and participated in the decision to not remit the trust fund taxes.

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### 4. For which taxes may an individual be held personally liable?

Trust fund taxes include Sales & Use, Room Occupancy, Withholding, Admissions, Dues, and Motor Vehicle Fuels taxes.

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### 5. Under what authority can DRS assess a Responsible Person Penalty?

- Sales and Use and Room Occupancy – Conn. Gen. Stat. § 12-414a;
  - Withholding – Conn. Gen. Stat. § 12-736;
  - Admissions and Dues – Conn. Stat. § 12-547a; **and**
  - Motor Vehicle Fuels – Conn. Gen. Stat. § 12-458e.
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### 6. Does the business need to be out of business for an individual to be assessed the Responsible Person Penalty?

No. An assessment may be initiated against any Responsible Person as soon as the business fails to pay trust fund taxes that are due.

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### 7. What if more than one individual is responsible?

DRS makes every effort to assess all persons who were responsible for paying the taxes and who willfully failed to do so. If more than one responsible person is assessed, each one is jointly and severally liable, but the total due is collected in full only one time.

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### 8. What happens if the business files bankruptcy?

Generally, the filing of bankruptcy by the business will not prevent the assessment of the Responsible Person Penalty.

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### 9. What happens if the Responsible Person files bankruptcy?

If the responsible person has already been assessed, DRS will be barred from trying to collect the assessment while the bankruptcy case is pending. If an assessment has not been finalized, DRS may proceed with issuance of a final assessment, but no attempts will be made to collect it during bankruptcy proceedings. DRS usually will, however, file a claim in the responsible person's bankruptcy case. If payment is not received from the court, collection action will begin upon the earlier of a discharge, dismissal, or such other time as permitted by federal or state law.

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### 10. What if I am assessed with a Responsible Person Penalty, but cannot pay?

If you are assessed, DRS will pursue appropriate collections action if you do not voluntarily make arrangements for payment. These cases are handled by revenue agents in DRS' Collections & Accounts Receivable Management Division.



# Can I Be Held Personally Liable For Payment of Business-Related Taxes?

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Department of Revenue Services  
450 Columbus Blvd, Ste 1  
Hartford CT 06103-1837

Tax information is available  
on our website at  
**[portal.ct.gov/DRS](http://portal.ct.gov/DRS)**

As a business owner or officer, you may be held personally liable for unremitted “trust fund taxes” such as Sales and Use and Withholding Income taxes. This liability is typically referred to as a “Responsible Person Penalty.” The Department of Revenue Services (DRS) can take your personal assets to collect this penalty.

## What are Trust Fund Taxes?

Most businesses that sell goods or taxable services are required to collect state sales taxes from their customers. In addition many businesses have employees from whom they will be required to withhold income taxes for payroll. Once these taxes are collected (from customers) or withheld (from employees) they are held “in trust” by the business or business owner until the tax return and payment become due. Therefore, these taxes are known as “trust fund taxes.” Other trust fund taxes include Room Occupancy, Admissions, Dues, and Motor Vehicle Fuels taxes. Stated simply, the tax you collect is the State’s money. You are simply holding the State’s money until you file your tax return.

## Criminal Consequences for not Remitting Trust Fund Taxes

Businesses regularly pay these trust fund taxes in a timely manner as the law requires. However, for a small number of business owners, financial problems lead to the temptation to “borrow” from these trust fund taxes in order to pay other business expenses. Giving in to such temptation may have serious consequences for the taxpayer including criminal penalties. This is because the money that the business is “borrowing” is the State’s money. By misappropriating the State’s money, the business is committing criminal theft.

## Civil Consequences for not Remitting Trust Fund Taxes

In addition to criminal penalties, DRS may assess any person responsible for collecting, truthfully accounting for, or remitting the tax, a penalty equal to the amount of the tax evaded, not collected, not accounted for, or not paid over. For all trust fund taxes other than withholding, this also includes any penalty or interest. This is typically referred to as the “Responsible Person Penalty.”

As a responsible person, your personal assets may be seized if it becomes necessary to assess you with unpaid business trust fund taxes.

## Who can be held personally liable?

A “responsible person” is a person or group of people who has the duty to perform and the power to direct the collecting, accounting, and paying of “trust fund taxes.” This person may be: an individual, an officer or an employee of a corporation, a member or employee of a partnership, members of limited liability companies and limited partners in limited partnerships, a corporate director or shareholder, a member of a board of trustees of a nonprofit organization, a person with the authority and control over funds to direct their disbursement, Payroll Service Providers, and Professional Employer Organizations.

For example, if you occupy a position within a corporation in which you have authority and control of payment of creditors and you choose to pay other creditors while trust fund taxes go unpaid, you may find yourself personally assessed with the company’s tax liability.

Should you find yourself facing the prospect of being unable to pay all debts as they become due **DRS encourages you to make paying over these “trust fund taxes” your top priority.** Nothing is worse than having your business fail and still having to face the responsibility of paying back trust fund taxes to the State. **Even filing a personal bankruptcy will not discharge this type of liability.**

You can avoid personal liability by making sure that all “trust fund taxes” are collected, accounted for and paid when required. Make your tax deposits and payments on time.

## Commonly Asked Questions

**1. If the business is no longer operating and I am assessed the Responsible Person Penalty is the amount of tax due collected twice, both personally and from my business?**

No. DRS can only collect the amount owed by the business one time.

**2. If the business is still operating and I am assessed the Responsible Person Penalty, is the amount of tax due collected twice, both personally and through my business?**

No. DRS can only collect the amount owed by the business one time.

If the liability is collected from the business, the responsible person will be given credit on his/her personal assessment.