HR Insights

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Costly Mistakes: Failing to Remit Payroll Taxes and Retirement Plan Contributions on Time

Like many businesses, you may be feeling the financial crunch these days and be tempted to use money you deduct for taxes and retirement plan contributions from employees' wages. Failing to remit payroll taxes and retirement plan contributions in a timely manner is not only a violation of an employer's legal obligation, it can also subject your company to heavy penalties.

When employers deduct income and Social Security taxes from employees' wages, the money is not theirs to use, even for a short period of time. You must remit the deducted amounts, along with your portion of payroll taxes, by their next scheduled Federal Tax Deposit deadline. There are deposit penalties for making late deposits and for not depositing the proper amount.

Additionally, there are penalties for failing to file returns and pay taxes when due, for filing false returns and for submitting bad checks. The rate of these penalties increases with every passing day until deposits are made. Interest is also charged on the total unpaid tax and the penalty. These penalties and interest can add up quickly and lead to even bigger financial troubles for your clients.

If you maintain a retirement plan and allow your employees to make elective deferrals, you cannot use any money you deduct for contributions to pay other business expenses. Instead, you have fiduciary obligations under the Employee Retirement Income Security Act of 1974 (ERISA) to deposit the deducted amounts as soon as those amounts can be segregated from their own general assets, but no later than the 15th business day of the month immediately after the month in which they withheld the contributions.

Under a proposed rule from the Department of Labor, plans with fewer than 100 participants are treated as meeting this deposit rule if such contributions are transferred to the plan within seven business days from the date those amounts would otherwise have been payable to the employee in cash.

Instead of using money that is not yours, explore other options. For example, reduce your overhead or borrow money to meet your business expenses. In the long run, these other options will be less costly for you.

Source: IRS.gov