

## POLICY & PROCEDURES

# Volunteer Board President “Responsible Person” For Payroll Taxes

FEBRUARY 12, 2009

### BE IN A POSITION OF STRENGTH

A Seventh Circuit decision provides a cautionary tale for taxpayers who serve as volunteer members of boards of local organizations (*Jefferson, No. 06-4082* (7th Cir. 10/8/08)). In this case, the taxpayer was an Illinois state legislator who served (without compensation) as the president of a daycare center. The daycare center failed to remit federal payroll taxes for several quarters while the taxpayer was serving as its' board president.

■ The taxpayer argued that he was not a “responsible person” under Sec. 6672 because he was not involved in the day-to-day operation of the center. The court disagreed because it found that, although he was a volunteer, he was not serving in merely an honorary capacity but was significantly involved in the center’s financial affairs. The court also found the taxpayer’s behavior to be “willful” because he saw monthly financial reports that showed the tax liability, but he recklessly disregarded the risk that the taxes were not being paid.

The court held that the taxpayer could be assessed for the Center’s back payroll taxes and be subject to the trust fund recovery penalty.

*The Tax Adviser Jan. 2009*

**IF YOU SERVE AS A  
VOLUNTEER MEMBER ON A  
BOARD OF A NON-PROFIT  
ORGANIZATION, PROCEED  
WITH CAUTION.**

Questions or comments?

E-mail us at [taxbriefs@withum.com](mailto:taxbriefs@withum.com)

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