



Can “The Boss” be Held Accountable for an Employee’s Paycheck?

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MANTECA, CALIFORNIA, CANADA, June 24, 2019 /EINPresswire.com/ -- It is often assumed that due to an organization’s business structure the owners can’t be held responsible for covering employee’s wages, but is this always the case? While there are different regulations for companies based on how they are set up, i.e. LLC, incorporation, sole proprietor, etc., one constant stays the same: business owners are responsible for employee paychecks.

Incorporation helps protect owners from liability if the business is sued or runs into financial trouble. A limited liability company, often referred to as an LLC, provides many advantages for business owners. An LLC is considered a separate entity from the business owner; this means that the business owner and directors aren’t held liable for company debts or legal issues. If the company goes bankrupt, the owners aren’t personally responsible for settling debts. What most people overlook with this is that there are some exceptions as to what responsibilities business owners are exempt from. One of the biggest exceptions is when it comes to paying employees.

The Fair Labor Standards Act (FLSA) of 1938 is still the law of the land when it comes to employer/employee relations in terms of payment and responsibilities. The FLSA allows corporate agents and even certain employees to be held personally responsible for covering minimum wage, overtime pay, and certain labor violations. Federal courts may apply what is called an “economic realities” test to enforce this. This test requires the business owner or responsible employee to take responsibility over the company’s operation and assume personal liability. When making their decision in exercising this judgment, the courts take into consideration the person’s power within the company, whether they have the right to hire or fire employees, determine salaries, keep company records, and other factors in the individual employee’s personal ability to control the company.

What does this mean for the business owner/responsible employee?

When the courts deem that the employer is personally liable for certain company responsibilities, it means that legal damages can be collected from the individual’s personal assets, including their bank account, retirement funds, and investment income. While historically it has often been that only the company was held liable and that individuals wouldn’t become personally responsible in cases of debts, this is changing, and personal employer responsibility is becoming more and more prevalent.

In the past, during employee collection efforts, the company was often sued for collection. In more recent cases, though, plaintiffs have been naming individuals responsible for company operations that resulted in the violations. When this happens, the courts can order damages to be paid by both the company and the individual manager.

The laws allowing the worker to go after individuals at the company, colloquially named “Sue Your Boss” laws, provide protection to these supervisory employees that helps ensure they don’t get left with nothing. Still, companies should promote a workplace environment that focuses on compliance with employment law, which includes policy development and management training.

Managers need to ensure that the employing company is following and compliant with all the relevant minimum wage, overtime, and other salary and benefit laws. Those who implement wage and hour policies should seek training regarding the complex maze of wage and hour regulations. Companies that have large overhead and employee wage expenses need to make sure they are up-to-date with all these laws and regulations, not only for the benefit of the employee, but also for the protection of the business owners.

Given that the personal liability of a company's operations goes against the general rule-of-thumb and common knowledge for companies, it helps to have expert advice on how to handle these situations, and to reduce risk and minimize personal liability should the situation occur. Organizations like [ClearPath Workforce Management](#) specialize in staying up-to-date with employment compliance to help alleviate the burden from companies. They provide [workforce management services](#) that help other companies stay abreast on the ever-changing employment legislation and regulations. This helps management mitigate any risks in employee engagement, which leads to a better workplace environment for employees and better company operations for employers.

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