

## BLOG

### A CORPORATION CAN BE HELD LIABLE FOR PAYROLL TAXES ON WAGES IT SHOULD HAVE PAID ITS OWNERS / OFFICERS

Blossom v. Comm., TC Memo 2021-86 (Tax Ct Memo 2021), a recent United States Tax Court case has held that corporate officers were employees of a corporation that they owned, and that the corporation was liable for payroll taxes on what the IRS determined to be what the corporation should have been paying them. By way of background, I.R.C. §3111 Federal Insurance Contribution Act (FICA) taxes and I.R.C. §3301 Federal Unemployment Tax Act (FUTA) taxes (collectively “payroll taxes”), defines an "employee" to include "any officer of a corporation." I.R.C. §3121(d)(1) and (d)(2), and I.R.C. §3306(i).

Officers of a corporation who perform more than minor services is an employee for employment tax purposes. Joseph M. Grey Pub. Accountant, P.C., 119 T.C. 121 (Tax 2002)

In the Hacker case, the Hackers were the sole owners of a corporation that operated day care centers. They ran the company, yet the company paid no salary or wages to the Hackers.

The IRS contended and the Tax Court agreed that the Hackers were employees and the company was therefore liable for its share of payroll taxes on a reasonable wage determination.