

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

§ 18130. Liability for Taxes Withheld or Collected; Failure to Collect and Pay Over Tax, or Attempt to Evade or Defeat Tax.

(a) Whenever any person is required to collect or withhold any tax from any other person and to pay over such tax to the Commonwealth, the amount of tax so collected or withheld shall be held to be a special fund in trust for the Commonwealth. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

(b) Any person required to collect, truthfully account for, and pay over any tax imposed by this Division who willfully fails to collect such tax, or truthfully account for and pay over such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over.

(c) *Preliminary Notice Requirement.*

(1) In General. No penalty shall be imposed under subsection (b) unless the Secretary notifies the taxpayer in writing by mail to an address as determined under section 1839 or in person that the taxpayer shall be subject to an assessment of such penalty.

(2) Timing of Notice. The mailing of the notice described in paragraph (1) (or, in the case of such a notice delivered in person, such delivery) shall precede any notice and demand of any penalty under subsection (b) by at least 60 days.

(3) Statute of Limitations. If a notice described in paragraph (1) with respect to any penalty is mailed or delivered in person before the expiration of the period provided by section 18101 for the assessment of such penalty (determined without regard to this paragraph), the period provided by such section for the assessment of such penalty shall not expire before the later of:

(A) The date 90 days after the date on which such notice was mailed or delivered in person, or

(B) If there is a timely protest of the proposed assessment, the date 30 days after the Secretary makes a final administrative determination with respect to such protest.

(4) Exception for Jeopardy. This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy.

Source: PL 14-35, § 4 (1920), modified.

Commission Comment: In subsections (c)(3) above, the Commission changed the section number originally referenced in PL 14-35 to the proper renumbered section number pursuant to its authority by 1 CMC § 3806(c).