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THE TAX LAWYER

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Suing Your Employer For Taking Out Taxes!

If you get fired or resign, you might end up suing your employer. Still at work? Laws protect [whistleblowers](#) and some others from retaliation, but no one likes to get sued. Talks around the water cooler can be difficult.

It can be especially bad to be sued for doing what the IRS **requires**. That's what happened in [Gust v. US Airways](#), where an employee sued his employer for complying with an IRS levy garnishing his wages. Hey, you should have checked to verify the levy was valid, Thomas Gust claimed.



image via wikibase.info

Thomas Gust, a [US Airways](#) employee, sued claiming US Airways should have known his wages were exempt from garnishment and that the IRS Notice was invalid. Nope, said the court, US Airways didn't even have standing to challenge the levy. Besides, if you honor an IRS levy as required, you are **specifically** protected from lawsuits by a section of the tax code, [Section 6332\(e\)](#).

What's a Levy? Where a taxpayer is delinquent and a third-party like a bank or employer has the taxpayer's money, the IRS goes to the source. The IRS can find your money and your employer. That's why a levy can be such a powerful collection tool in the hands of the IRS.

The IRS can serve a [Notice of Levy](#) on the third-party and if you don't comply, you become **personally** liable to the IRS too. Fortunately, third-parties have immunity for honoring a tax levy. US Airways had no duty to ensure that Gust had received the appropriate notices or even that the levy was valid. Once US Airways received the Notice of Levy, it had a legal obligation to turn over Gust's wages to IRS.

Gust also claimed US Airways failed to honor his wages as exempt from withholding. Again, the court said no dice. Many courts have held that an employer cannot be made liable for failing to honor an employee's withholding tax form ([W-4](#)) when the employer is directed to withhold by IRS. Employers must honor IRS tax levies and must comply with IRS demands for garnishment of wages. Period.

For more, see:

[Got A Tax Notice? Here's What To Do](#)

[Ten Things To Know About Fighting An IRS Bill](#)

[Ten Ways To Audit-Proof Your Tax Return](#)

[IRS Wants More Penalties](#)

[Choose Your Ground In Tax Disputes](#)

[Received An IRS Notice? 10 Simple Tips](#)

[IRS To Whistleblowers: "Thanks, But We're Withholding!"](#)

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