

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. ) Case No. 15-cv-4026-MWB  
)  
PYLE TRANSPORTATION, INC.; )  
BRIAN PYLE; JASON PYLE; )  
JUSTIN A. PYLE; MICHAEL D. PYLE; )  
RHONDA J. PYLE; and MICHELLE L. )  
PYLE-KOLPIN, )  
)  
Defendants. )

**COMPLAINT FOR PERMANENT INJUNCTION  
AND FOR OTHER RELIEF**

Plaintiff United States of America brings this complaint to seek injunctive relief against defendants Pyle Transportation, Inc., Brian Pyle, Jason Pyle, Justin A. Pyle, Michael D. Pyle, Rhonda J. Pyle, and Michelle L. Pyle-Kolpin in order to compel the defendants to stop the pyramiding of unpaid employment taxes and comply with the employment tax laws. In support of this complaint, the United States alleges as follows:

**Jurisdiction and Defendants**

1. This action is commenced at the request and with the authorization of a delegate of the Secretary of the Treasury and at the direction of the Attorney General pursuant to 26 U.S.C. §§ 7401 and 7402.
2. Jurisdiction is conferred on this Court by 26 U.S.C. § 7402(a) and 28 U.S.C. §§ 1340 and 1345.
3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1396 in that the defendants reside or are located in this district and because a substantial part of the events or omissions giving rise to this action occurred within this district.

4. Pyle Transportation, Inc. (“PTI”), an Iowa corporation, has its principal place of business in Schaller, Iowa, and conducts business in that area. PTI is a family-owned trucking business.

5. Brian Pyle is the President and an employee of PTI. He resides in Schaller, Iowa.

6. Jason Pyle is the Vice President and an employee of PTI. He resides in Schaller, Iowa.

7. Justin A. Pyle is the Secretary, Treasurer, and an employee of PTI. He resides in Schaller, Iowa.

8. Michael D. Pyle is an employee of PTI. He resides in Schaller, Iowa.

9. Rhonda J. Pyle is an employee of PTI. She resides in Schaller, Iowa.

10. Michelle L. Pyle-Kolpin is an employee of PTI. She resides in Schaller, Iowa.

### **Claim for Injunction**

11. Section 7402(a) of the Internal Revenue Code, 26 U.S.C., authorizes courts to issue injunctions “as may be necessary or appropriate for the enforcement of the internal revenue laws.” The remedies available to the United States under that statute “are in addition to and not exclusive of any and all other remedies.” 26 U.S.C. § 7402(a).

12. As an employer, PTI is required by law to withhold from its employees’ wages federal income and Federal Insurance Contributions Act (FICA) taxes, and to pay over to the IRS those withholdings, along with the employer’s own FICA and Federal Unemployment Tax Act (FUTA) taxes.

13. Since at least 2009, PTI has failed to comply with its federal tax obligations by continually neglecting to timely file employment tax returns, and failing to pay federal employment taxes.

14. Though crediting its employees for withholding federal tax payments, PTI has continuously failed to pay such credited withholdings to the United States.

15. In addition to failing to pay the government its employees' credited withholdings, PTI continuously fails to pay its employer's share of FICA (Form 941) taxes.

16. PTI has failed to pay heavy highway vehicle use taxes (Form 2290) for the tax periods ending July 31, 2009 and July 31, 2011.

17. A summary of PTI's federal tax liabilities is set forth as follows:

<b><u>Tax Type</u></b>	<b><u>Tax Period</u></b>	<b><u>Amount Owed As of May 13, 2014</u></b>
941	200906	\$ 2,411.88
2290	200907	2,789.48
941	200909	10,017.77
941	200912	16,733.96
941	201003	13,607.01
941	201006	30,970.58
941	201009	25,659.12
941	201012	1,821.55
941	201103	1,225.82
2290	201107	4,024.84
941	201109	13,052.13
941	201112	15,498.04
941	201203	11,863.33
941	201206	1,548.32
	<b>TOTAL</b>	<b>\$151,223.83</b>

18. The Internal Revenue Service has exhausted its administrative remedies and collection methods with respect to the subject liabilities as described below:

- a. The IRS has filed Notices of Federal Tax Lien with the Sac County, Iowa Recorder and the Iowa Secretary of State. However, PTI has no significant assets from which the IRS may attempt to collect the unpaid taxes by foreclosure, and PTI has other creditors.
- b. The IRS delivered numerous Notices of Intent to Levy to PTI. The IRS also served levies upon third parties for any money held in PTI's bank accounts and for accounts receivables, which resulted in minimal funds collected. The IRS has not been able to collect the full amount due.
- c. PTI has also submitted numerous checks to the IRS that were dishonored by its bank. PTI continues to accrue unpaid tax liabilities.
- d. The IRS has assessed trust-fund-recovery penalties in accordance with 26 U.S.C. § 6672 against defendants Brian Pyle, Jason Pyle, Justin A. Pyle, Michael D. Pyle, Rhonda J. Pyle, and Michelle L. Pyle-Kolpin ("the individual defendants") for their failure to pay over to the government the federal income and FICA taxes withheld from the income of PTI's employees. The IRS has been unable to collect the trust-fund-recovery penalty liabilities from the individual defendants.

19. An injunction by this Court ordering PTI and the individual defendants to comply with the federal payroll tax requirements is necessary and appropriate for the following reasons:

- a. The IRS has no adequate remedy at law other than an injunction because the above facts demonstrate that traditional collection methods have not and will not convince PTI and the individual defendants to stop pyramiding federal tax liabilities.
- b. PTI's payroll tax liabilities continue to accrue. Absent an injunction, based on its past tax history, it is reasonable to expect that PTI's noncompliance with the tax laws will continue and that it will amass further employment tax liabilities each quarter that the United States will not be able to collect.
- c. If PTI and the individual defendants are not enjoined the United States will suffer irreparable injury. PTI and the individual defendants' conduct results in the loss of both the employer's FICA tax contributions and the employees' FICA and federal income taxes. Absent an injunction, the IRS will have to devote substantial time and resources to attempt to collect the taxes owed and required to be paid over by PTI and the individual defendants, and even then it would likely be unsuccessful due to PTI's lack of assets.
- d. An injunction will compel PTI and the individual defendants to conduct business like every other tax-paying business in the country. This will not result in an injury to PTI and the individual defendants, but instead will compel them to comply with the nation's tax laws by timely filing the appropriate returns and paying taxes just as every other business must do.
- e. PTI and the individual defendants' failure to pay employment taxes gives PTI an unfair advantage over competitors and other businesses because PTI effectively obtains the same amount of labor for less total payroll cost. An injunction will

protect the public's interest in fair competition by halting PTI and the individual defendants' unfair practices and thereby more effectively leveling the playing field.

20. In fact, the individual defendants previously operated two other trucking businesses, Horizon Logistics and Pyle Truck Line, which also pyramided federal employment tax liabilities. After accruing and failing to pay those tax liabilities, the operations and customers of the previous businesses were transferred to PTI. The IRS has been unable to collect the previous businesses' unpaid federal employment tax liabilities.

21. PTI and the individual defendants, through their neglect of the federal tax laws, have engaged in conduct that substantially interferes with the administration and enforcement of the internal revenue laws. Any injunction is appropriate and necessary to prevent continued violations.

22. The Court should order injunctive relief under 26 U.S.C. § 7402(a) against defendants PTI, Brian Pyle, Jason Pyle, Justin A. Pyle, Michael D. Pyle, Rhonda J. Pyle, and Michelle L. Pyle-Kolpin.

WHEREFORE, the United States requests that the Court:

A. Enter an injunction against all the defendants requiring that they:

- (1) Deposit withheld FICA and income taxes, as well as the employer's share of FICA taxes of PTI's business, in an appropriate federal depository bank in accordance with federal deposit regulations;

- (2) Deposit PTI's FUTA taxes in an appropriate federal depository bank in accordance with federal deposit regulations;
- (3) For a period of five years, sign and deliver to a designated IRS officer on the first day of each month an affidavit stating that the requisite withheld income, FICA and FUTA tax deposits were timely made;
- (4) Timely file all federal employment and unemployment returns (including Forms 940 and 941) of PTI with the IRS;
- (5) Timely pay all required outstanding liabilities due with each tax return at the time the return is filed;
- (6) Be prohibited from making any disbursement or assigning any property from the date of payment of any wages until the amounts which are required to be withheld from the payment of those wages and the employer's share of FICA taxes related to those wages are deposited or paid to the IRS in accordance with subparagraphs (1), (2), (4) and (5), above; and
- (7) Notify the IRS of any new company, entity, or business to which PTI's operation or customers are transferred or that any of the individual defendants may come to own, manage, or be employed by in the next five years;

B. Grant the United States its costs incurred in the commencement and prosecution of this action; and

C. Grant the United States such other and further relief as the Court deems proper and just.

Respectfully submitted,

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