

Publication 15

(Circular E), Employer' Tax Guide

For use in preparing
2024 Returns)

Volume 1 of 4



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Future Developments

For the latest information about developments related to Pub. 15, such as

legislation enacted after it was published, go to [IRS.gov/Pub15](https://www.irs.gov/pub15).

What's New

Pub. 15 is now for all employers. Pub. 15 can now be used by all employers, including agricultural employers and employers in the U.S. territories. Pub. 51, Agricultural Employer's Tax Guide; Pub. 80, Federal Tax Guide for Employers in the U.S. Virgin islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and Pub. 179, Guía Contributiva Federal para Patronos Puertorriqueños, have been discontinued. If you prefer Pub. 15 in Spanish, there is a new Pub. 15 (sp) available for 2024.

Unless otherwise noted, references throughout this publication to Form W-2 include Forms W-2AS, W-2CM, W-2GU, W-2VI, and Form 499R-2/W-2PR; references to

Form W-2c include Form 499R-2c/W-2cPR; references to Form W-3 include Form W-3SS and Form W-3PR; and references to Form W-3c include Form W-3C (PR).

Social security and Medicare tax for 2024. The rate of social security tax on taxable wages is 6.2% each for the employer and employee. The social security wage base limit is \$168,600.

The Medicare tax rate is 1.45% each for the employee and employer, unchanged from 2023. There is no wage base limit for Medicare tax.

Social security and Medicare taxes apply to the wages of household workers you pay \$2,700 or more in cash wages in 2024. Social security and Medicare taxes apply to election workers who are paid \$2,300 or more in cash or an equivalent form of compensation in 2024.

The COVID-19 related credit for qualified sick and family leave wages is limited to leave taken after March 31, 2020, and before October 1, 2021, and may no longer be claimed on Form 941. Generally, the credit for qualified sick and family leave wages, as enacted under the Families First Coronavirus Response Act (FFCRA) and amended and extended by the COVID-related Tax Relief Act of 2020, for leave taken after March 31, 2020, and before April 1, 2021, and the credit for qualified sick and family leave wages under sections 3131, 3132, and 3133 of the Internal Revenue Code, as enacted under the American Rescue Plan Act of 2021 (the ARP), for leave taken after March 31, 2021, and before October 1, 2021, have expired. However, employers that pay qualified sick and family leave wages in 2024 for leave taken after March 31, 2020, and before October 1, 2021, are eligible to claim a credit for qualified sick and family leave wages in 2024. Effective for tax periods

beginning after December 31, 2023, the lines used to claim the credit for qualified sick and family leave wages have been removed from Form 941, Employer's QUARTERLY Federal Tax Return, because it would be extremely rare for an employer to pay wages in 2024 for qualified sick and family leave taken after March 31, 2020, and before October 1, 2021. Instead, if you're eligible to claim the credit for qualified sick and family leave wages because you paid the wages in 2024 for an earlier applicable leave period, file Form 941-X, Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund, after filing Form 941, to claim the credit for qualified sick and family leave wages paid in 2024. Filing a Form 941-X before filing a Form 941 for the quarter may result in errors or delays in processing your Form 941-X.

New Forms 941 (sp), 943 (sp), and 944 (sp). If you prefer your form and instructions in Spanish, you can file new Form 941 (sp), new Form 943 (sp), and Form 944 (sp).

Reminders

Qualified small business payroll tax credit for increasing research activities.

For tax years beginning before January 1, 2023, a qualified small business may elect to claim up to \$250,000 of its credit for increasing research activities as a payroll tax credit. The Inflation Reduction Act of 2022 (the IRA) increases the election amount to \$500,000 for tax years beginning after December 31, 2022. The payroll tax credit election must be made on or before the due date of the originally filed income tax return (including extensions). The portion of the credit used against payroll taxes is allowed in the first calendar quarter beginning after the date that the qualified small business filed its income tax return. The election and

determination of the credit amount that will be used against the employer's payroll taxes are made on Form 6765, Credit for Increasing Research Activities. The amount from Form 6765, line 44, must then be reported on Form 8974, Qualified Small Business Payroll Tax Credit for Increasing Research Activities.

Starting in the first quarter of 2023, the payroll tax credit is first used to reduce the employer share of social security tax up to \$250,000 per quarter and any remaining credit reduces the employer share of Medicare tax for the quarter. Any remaining credit, after reducing the employer share of social security tax and the employer share of Medicare tax, is then carried forward to the next quarter. Form 8974 is used to determine the amount of the credit that can be used in the current quarter. The amount from Form 8974, line 12 or, if applicable, line 17, is reported on Form 941, Form 943, or Form

944. For more information about the payroll tax credit, see [IRS.gov/](https://www.irs.gov/ResearchPayrollTC)

[ResearchPayrollTC](https://www.irs.gov/ResearchPayrollTC). Also see the line 16 instructions in the Instructions for Form 941 (line 17 instructions in the Instructions for Form 943 or line 13 instructions in the Instructions for Form 944) for information on reducing your record of tax liability for this credit.

Disaster tax relief. Disaster tax relief is available for those impacted by disasters. For more information about disaster relief, go to [IRS.gov/DisasterTaxRelief](https://www.irs.gov/DisasterTaxRelief).

Payroll tax credit for certain tax-exempt organizations affected by qualified disasters. Section 303(d) of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 allows for a payroll tax credit for certain tax-exempt organizations affected by certain qualified disasters **not** related to COVID-19. This credit is claimed on Form 5884-D (not on Form 941, Form 943, or Form 944). Form

5884-D is filed after the Form 941 for the quarter, Form 943 for the year, or Form 944 for the year for which the credit is being claimed has been filed. For more information about this credit, go to [IRS.gov/Form5884D](https://www.irs.gov/Form5884D).

2024 withholding tables. The Percentage Method and Wage Bracket Method withholding tables, the employer instructions on how to figure employee withholding, and the amount to add to a nonresident alien employee's wages for figuring income tax withholding are included in Pub. 15-T, Federal Income Tax Withholding Methods, available at [IRS.gov/Pub15T](https://www.irs.gov/pub15t).

Moving expense reimbursement. P.L. 115-97 suspends the exclusion for qualified moving expense reimbursements from your employee's income for tax years beginning after 2017 and before 2026. However, the exclusion is still available in the case of a member of the U.S. Armed Forces on active duty who moves because of a permanent

change of station due to a military order. The exclusion applies only to reimbursement of moving expenses that the member could deduct if they had paid or incurred them without reimbursement. See *Moving Expenses* in Pub. 3, *Armed Forces' Tax Guide*, for the definition of what constitutes a permanent change of station and to learn which moving expenses are deductible.

Withholding on supplemental wages.

P.L. 115-97 lowered the withholding rates on supplemental wages for tax years beginning after 2017 and before 2026. See section 7 for the withholding rates.

Backup withholding. P.L. 115-97 lowered the backup withholding rate to 24% for tax years beginning after 2017 and before 2026. For more information on backup withholding, see *Backup withholding*, later.

Certification program for professional employer organizations (PEOs). The Stephen Beck, Jr., Achieving a Better Life

Experience Act of 2014 required the IRS to establish a voluntary certification program for PEOs. PEOs handle various payroll administration and tax reporting responsibilities for their business clients and are typically paid a fee based on payroll costs. To become and remain certified under the certification program, certified professional employer organizations (CPEOs) must meet various requirements described in sections 3511 and 7705 and related published guidance. Certification as a CPEO may affect the employment tax liabilities of both the CPEO and its customers. A CPEO is generally treated for employment tax purposes as the employer of any individual who performs services for a customer of the CPEO and is covered by a contract described in section 7705(e)(2) between the CPEO and the customer (CPEO contract), but only for wages and other compensation paid to the individual by the CPEO. To become a CPEO, the organization must apply through the IRS

Online Registration System. For more information or to apply to become a CPEO, go to [IRS.gov/CPEO](https://www.irs.gov/CPEO). Also see Revenue Procedure 2023-18, 2023-13 I.R.B. 605, available at [IRS.gov/irb/ 2023-13 IRB#REV-PROC-2023-18](https://www.irs.gov/irb/2023-13_IRB#REV-PROC-2023-18).

Outsourcing payroll duties. Generally, as an employer, you're responsible to ensure that tax returns are filed and deposits and payments are made, even if you contract with a third party to perform these acts. You remain responsible if the third party fails to perform any required action. Before you choose to outsource any of your payroll and related tax duties (that is, withholding, reporting, and paying over social security, Medicare, FUTA, and income taxes) to a third-party payer, such as a payroll service provider or reporting agent, go to [IRS.gov/OutsourcingPayrollDuties](https://www.irs.gov/OutsourcingPayrollDuties) for helpful information on this topic. If a CPEO pays wages and other compensation to an

individual performing services for you, and the services are covered by a CPEO contract, then the CPEO is generally treated as the employer, but only for wages and other compensation paid to the individual by the CPEO. However, with respect to certain employees covered by a CPEO contract, you may also be treated as an employer of the employees and, consequently, may also be liable for federal employment taxes imposed on wages and other compensation paid by the CPEO to such employees. For more information on the different types of third-party payer arrangements, see section 16.

Aggregate Form 941 or Form 943 filers.

Approved section 3504 agents and CPEOs must complete Schedule R (Form 941), Allocation Schedule for Aggregate Form 941 Filers, or Schedule R (Form 943), Allocation Schedule for Aggregate Form 943 Filers, as applicable, when filing an aggregate Form 941 or Form 943. An aggregate quarterly Form

941 or annual Form 943 is filed by an agent approved by the IRS under section 3504 of the Internal Revenue Code. To request approval to act as an agent for an employer, the agent files Form 2678 with the IRS unless you're a state or local government agency acting as an agent under the special procedures provided in Revenue Procedure 2013-39, 2013-52 I.R.B. 830, available at [IRS.gov/irb/2013-52_IRB#RP-2013-39](https://www.irs.gov/irb/2013-52_IRB#RP-2013-39). An aggregate quarterly Form 941 or annual Form 943 is also filed by CPEOs approved by the IRS under section 7705. To become a CPEO, the organization must apply through the IRS Online Registration System at [IRS.gov/CPEO](https://www.irs.gov/CPEO). CPEOs file Form 8973, Certified Professional Employer Organization/Customer Reporting Agreement, to notify the IRS that they've started or ended a service contract with a client or customer. CPEOs must generally file Form 941 or Form 943 and the applicable Schedule R electronically. For more information about a CPEO's requirement to

file electronically, see [Revenue Procedure 2023-18](#).

Other third-party payers that file an aggregate quarterly Form 941 or annual Form 943, such as non-certified PEOs, must complete and file the applicable Schedule R if they have clients that are claiming any employment tax credit (for example, the qualified small business payroll tax credit for increasing research activities).

Aggregate Form 940 filers. Approved section 3504 agents and CPEOs must complete Schedule R (Form 940), Allocation Schedule for Aggregate Form 940 Filers, when filing an aggregate Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return. Aggregate Forms 940 can be filed by agents acting on behalf of home care service recipients who receive home care services through a program administered by a federal, state, or local government. To request approval to act as an agent on behalf

of home care service recipients, the agent files Form 2678 with the IRS unless you're a state or local government agency acting as an agent under the special procedures provided in [*Revenue Procedure 2013-39*](#). Aggregate Forms 940 are also filed by CPEOs approved by the IRS under section 7705. CPEOs file Form 8973 to notify the IRS that they've started or ended a service contract with a client or customer. CPEOs must generally file Form 940 and Schedule R (Form 940) electronically. For more information about a CPEO's requirement to file electronically, see [*Revenue Procedure 2023-18*](#).

Work opportunity tax credit for qualified tax-exempt organizations hiring qualified veterans. Qualified tax-exempt organizations that hire eligible unemployed veterans may be able to claim the work opportunity tax credit against their payroll tax liability using Form 5884-C. For more information, go to [*IRS.gov/WOTC*](#).

Medicaid waiver payments. Notice 2014-7 provides that certain Medicaid waiver payments are excludable from income for federal income tax purposes. See Notice 2014-7, 2014-4 I.R.B. 445, available at [IRS.gov/irb/ 2014-04 IRB#NOT-2014-7](http://IRS.gov/irb/2014-04_IRB#NOT-2014-7). For more information, including questions and answers related to Notice 2014-7, go to IRS.gov/MedicaidWaiverPayments.

No federal income tax withholding on disability payments for injuries incurred as a direct result of a terrorist attack directed against the United States.

Disability payments for injuries incurred as a direct result of a terrorist attack directed against the United States (or its allies) aren't included in income. Because federal income tax withholding is only required when a payment is includible in income, no federal income tax should be withheld from these payments. See Pub. 907, Tax Highlights for

Persons With Disabilities; and Pub. 3920, Tax Relief for Victims of Terrorist Attacks.

Voluntary withholding on dividends and other distributions by an Alaska Native Corporation (ANC). A shareholder of an ANC may request voluntary income tax withholding on dividends and other distributions paid by an ANC. A shareholder may request voluntary withholding by giving the ANC a completed Form W-4V. For more information, see Notice 2013-77, 2013-50 I.R.B. 632, available at [IRS.gov/irb/2013-50_IRB#NOT-2013-77](https://www.irs.gov/irb/2013-50_IRB#NOT-2013-77).

Definition of marriage. A marriage of two individuals is recognized for federal tax purposes if the marriage is recognized by the state or territory of the United States in which the marriage is entered into, regardless of legal residence. Two individuals who enter into a relationship that is denominated as marriage under the laws of a foreign jurisdiction are recognized as married for

federal tax purposes if the relationship would be recognized as marriage under the laws of at least one state or territory of the United States, regardless of legal residence.

Individuals who have entered into a registered domestic partnership, civil union, or other similar relationship that isn't denominated as a marriage under the law of the state or territory of the United States where such relationship was entered into aren't lawfully married for federal tax purposes, regardless of legal residence.

Differential wage payments. Qualified differential wage payments made by employers to individuals serving in the U.S. Armed Forces are subject to income tax withholding but not social security, Medicare, or FUTA tax. See section 5 for more information.

Severance payments. Severance payments are wages subject to social security and

Medicare taxes, income tax withholding, and FUTA tax.

You must receive written notice from the IRS to file Form 944. If you've been filing quarterly Forms 941 and believe your employment taxes for the calendar year will be \$1,000 or less, and you would like to file an annual Form 944 instead of quarterly Forms 941, you must contact the IRS during the first calendar quarter of the tax year to request to file Form 944. You must receive written notice from the IRS to file Form 944 instead of quarterly Forms 941 before you may file this form. For more information on requesting to file Form 944, including the methods and deadlines for making a request, see the Instructions for Form 944.

Employers can request to file quarterly Forms 941 instead of an annual Form 944. If you received notice from the IRS to file Form 944 but would like to file quarterly Forms 941 instead, you must contact the IRS

during the first calendar quarter of the tax year to request to file quarterly Forms 941. You must receive written notice from the IRS to file quarterly Forms 941 instead of Form 944 before you may file these forms. For more information on requesting to file quarterly Forms 941, including the methods and deadlines for making a request, see the Instructions for Form 944.

Correcting Form 941, Form 943, or Form 944. If you discover an error on a previously filed Form 941, make the correction using Form 941-X. If you discover an error on a previously filed Form 943, make the correction using Form 943-X. If you discover an error on a previously filed Form 944, make the correction using Form 944-X. Forms 941-X, 943-X, and 944-X are filed separately from Forms 941, 943, and 944. Forms 941-X, 943-X, and 944-X are used by employers to claim refunds or abatements of employment taxes,

rather than Form 843. See [section 13](#) for more information.

Zero wage return. If you haven't filed a "final" Form 940 and "final" Form 941, Form 943, or Form 944, or aren't a "seasonal" employer (Form 941 only), you must continue to file a Form 940 and Forms 941, Form 943, or Form 944, even for periods during which you paid no wages. The IRS encourages you to file your "zero wage" Form 940 and Form 941, Form 943, or Form 944 electronically. Go to [IRS.gov/EmploymentEfile](https://www.irs.gov/employmentefile) for more information on electronic filing.

Federal tax deposits must be made by electronic funds transfer (EFT). You must use EFT to make all federal tax deposits. Generally, an EFT is made using the Electronic Federal Tax Payment System (EFTPS). If you don't want to use EFTPS, you can arrange for your tax professional, financial institution, payroll service, or other trusted third party to make electronic

deposits on your behalf. Also, you may arrange for your financial institution to initiate a same-day wire payment on your behalf. EFTPS is a free service provided by the Department of the Treasury. Services provided by your tax professional, financial institution, payroll service, or other third party may have a fee.

For more information on making federal tax deposits, see *How To Deposit* in section 11. To get more information about EFTPS or to enroll in EFTPS, go to [EFTPS.gov](https://eftps.gov) or call 800-555-4477, 800-244-4829 (Spanish), or 303-967-5916 (toll call). To contact EFTPS using Telecommunications Relay Services (TRS) for people who are deaf, hard of hearing, or have a speech disability, dial 711 and then provide the TRS assistant the 800-555-4477 number or 800-733-4829. Additional information about EFTPS is also available in Pub. 966.

Residents of the Philippines working in the Commonwealth of the Northern Mariana Islands (CNMI). Employers must withhold and pay social security and Medicare taxes on wages and other compensation paid to residents of the Philippines who don't hold an H-2 status for services performed as employees in the CNMI unless those workers are eligible for exemption from social security and Medicare taxes under an exception listed in section 15. For more information, see Announcement 2012-43, 2012-51 I.R.B. 723, available at [IRS.gov/irb/ 2012-51 IRB#ANN-2012-43](https://www.irs.gov/irb/2012-51_IRB#ANN-2012-43).

Federal employers in the CNMI. The U.S. Treasury Department and the CNMI Division of Revenue and Taxation entered into an agreement under 5 U.S.C. section 5517 in December 2006. Under this agreement, all federal employers (including the Department of Defense) are required to withhold CNMI income taxes (rather than federal income

taxes) and deposit the CNMI taxes with the CNMI Treasury for employees who are subject to CNMI taxes and whose regular place of federal employment is in the CNMI. For more information, including details on completing Form W-2, go to [IRS.gov/5517Agreements](https://www.irs.gov/5517Agreements). Federal employers are also required to file quarterly and annual reports with the CNMI Division of Revenue and Taxation. For questions, contact the CNMI Division of Revenue and Taxation.

Pub. 5146 explains employment tax examinations and appeal rights. Pub. 5146 provides employers with information on how the IRS selects employment tax returns to be examined, what happens during an exam, and what options an employer has in responding to the results of an exam, including how to appeal the results. Pub. 5146 also includes information on worker classification issues and tip exams.

Electronic Filing and Payment

Businesses can enjoy the benefits of filing and paying their federal taxes electronically.

Whether you rely on a tax professional or handle your own taxes, the IRS offers you convenient and secure programs to make filing and payment easier.

Spend less time worrying about taxes and more time

running your business. Use *e-file* and EFTPS to your benefit.

- For *e-file*, go to [IRS.gov/EmploymentEfile](https://www.irs.gov/employmentefile) for additional information. A fee may be charged to file electronically.
- For EFTPS, go to [EFTPS.gov](https://www.eftps.gov) or call EFTPS Customer Service at 800-555-4477, 800-244-4829 (Spanish), or 303-967-5916 (toll call). To contact EFTPS using TRS for people who are deaf, hard of hearing, or have a speech disability, dial 711 and then

provide the TRS assistant the 800-555-4477 number or 800-733-4829.

- For electronic filing of Forms W-2, Wage and Tax Statement, including Forms W-2AS, W-2CM, W-2GU, and W-2VI, and Forms 499R-2/W-2PR, go to [SSA.gov/employer](https://www.ssa.gov/employer). You may be required to file Forms W-2 electronically. For details, see the General Instructions for Forms W-2 and W-3. If you experience problems filing electronically, contact the Social Security Administration (SSA) at 800-772-6270. To speak with the SSA's Regional Employer Services Liaison Officer, go to the SSA's Regional Employer Services Liaison Officers website at [SSA.gov/employer/wage_reporting_specialists.htm](https://www.ssa.gov/employer/wage_reporting_specialists.htm). The Regional Employer Services Liaison Officers are available to provide assistance with all questions about the SSA's payroll reporting processes and applications.

Employers in the CNMI should contact their local tax department for instructions on completing Form W-2CM. You can get Form W-2CM and its instructions by going to Finance.gov.mp/forms.php, or by calling 670-664-1000.



If you're filing your tax return or paying your federal taxes electronically, a valid employer identification number (EIN) is required at the time the return is filed or the payment is made. If a valid EIN isn't provided, the return or payment won't be processed. This may result in penalties. See section 1 for information about applying for an EIN.

Electronic funds withdrawal (EFW). If you file your employment tax return electronically, you can *e-file* and use EFW to pay the balance due in a single step using tax preparation software or through a tax professional. However, don't use EFW to make federal tax deposits. For more

information on paying your taxes using EFW, go to [IRS.gov/EFW](https://www.irs.gov/EFW).

Credit or debit card payments. You can pay the balance due shown on your employment tax return by credit or debit card. Your payment will be processed by a payment processor who will charge a processing fee. Don't use a credit or debit card to make federal tax deposits. For

more information on paying your taxes with a credit or debit card, go to [IRS.gov/PayByCard](https://www.irs.gov/PayByCard).

Online payment agreement. You may be eligible to apply for an installment agreement online if you can't pay the full amount of tax you owe when you file your employment tax return. For more information, see the instructions for your employment tax return or go to [IRS.gov/OPA](https://www.irs.gov/OPA).

Forms in Spanish

Many forms and instructions discussed in this publication have Spanish-language versions available for employers and employees. Some examples include Form 941 (sp), Form 944 (sp), Form SS-4 (sp), Form W-4 (sp), and Form W-9 (sp). Although this publication doesn't reference Spanish-language forms and instructions in each instance that one is available, you can see Pub. 15 (sp) and go to [IRS.gov](https://www.irs.gov) to determine if a Spanish-language version is available.

Hiring New Employees

Eligibility for employment. You must verify that each new employee is legally eligible to work in the United States, including American Samoa, Guam, the CNMI, the U.S Virgin Islands (USVI), and Puerto Rico. This includes completing the U.S. Citizenship and Immigration Services (USCIS) Form I-9, Employment Eligibility Verification. You can

get Form I-9 at [USCIS.gov/Forms](https://uscis.gov/forms). For more information, go to the USCIS website at [USCIS.gov/I-9-Central](https://uscis.gov/I-9-Central), or call 800-375-5283 or 800-767-1833 (TTY).

You may use the Social Security Number Verification Service (SSNVS) at [SSA.gov/employer/ssnv.htm](https://ssa.gov/employer/ssnv.htm) to verify that an employee name matches an SSN. A person may have a valid SSN but not be authorized to work in the United States. You may use E-Verify at [E-Verify.gov](https://e-verify.gov) to confirm the employment eligibility of newly hired employees.

New hire reporting. All 50 states, and most of the territories, have a new hire registry. You're required to report any new employee to a designated state new hire registry. A new employee is an employee who hasn't previously been employed by you or was previously employed by you but has been separated from such prior employment for at least 60 consecutive days.

Many states accept a copy of Form W-4 with employer information added. Go to the Office of Child Support Enforcement website at acf.hhs.gov/programs/css/employers for more information. Employers in American Samoa, Guam, the CNMI, the USVI, and Puerto Rico should contact their local government for information on their new hire registry.

W-4 request. Ask each new employee to complete the 2024 Form W-4. See section 9.

Name and social security number (SSN). Record each new employee's name and SSN from their social security card if it is available. If an employee can't provide their social security card, you should verify their SSN and their eligibility for employment as discussed under Verification of SSNs. Any employee without a social security card should apply for one. See section 4.

Information Returns

You must file Forms W-2 to report wages paid to employees. You may also be required to file information returns to report certain types of payments made during the year. For example, you must file Form 1099-NEC, Nonemployee Compensation, to report payments of \$600 or more to persons not treated as employees (for example, independent contractors) for services performed for your trade or business. For details about filing Forms 1099 and for information about required electronic filing, see the General Instructions for Certain Information Returns for general information, and the separate, specific instructions for each information return you file (for example, the Instructions for Forms 1099-MISC and 1099-NEC). Generally, don't use Forms 1099 to report wages and other compensation you paid to employees; report these on Form W-2. See the General Instructions for Forms W-2 and W-3 for details about filing Form W-2 and for information about required electronic filing.

Technical Services Operation (TSO). The IRS operates the TSO to answer questions about reporting on Forms W-2, W-3, and 1099, and other information returns. If you have questions related to reporting on information returns, call 866-455-7438 (toll free) or 304-263-8700 (toll call). The center can also be reached by email at mccirp@irs.gov. Don't include taxpayer identification numbers (TINs) or attachments in email because email isn't secure.

Federal Income Tax Withholding



References to federal income tax withholding don't apply to employers in American Samoa, Guam, the CNMI, the USVI, and Puerto Rico, unless you have employees who are subject to U.S. income tax withholding. Contact your local tax department for information about income tax withholding.

Withhold federal income tax from each wage payment or supplemental unemployment compensation plan benefit payment according to the employee's Form W-4 and the correct withholding table in Pub. 15-T. Form

operators and crew leaders must withhold federal income tax from the wages of farmworkers if the wages are subject to social security and Medicare taxes. If you're paying supplemental wages to an employee, see section 7. If you have nonresident alien employees, see *Withholding federal income taxes on the wages of nonresident alien employees* in section 9.

See section 8 of Pub. 15-A, Employer's Supplemental Tax Guide, for information about withholding on pensions (including distributions from tax-favored retirement plans), annuities, and individual retirement arrangements (IRAs).

Nonpayroll Income Tax Withholding

Nonpayroll federal income tax withholding (reported on Forms 1099 and Form W-2G, Certain Gambling Winnings) must be reported on Form 945, Annual Return of Withheld Federal Income Tax. Separate deposits are required for payroll (Form 941, Form 943, or Form 944) and nonpayroll (Form 945) withholding. Nonpayroll items include the following.

- Pensions (including distributions from tax-favored retirement plans, for example, section 401(k), section 403(b), and governmental section 457(b) plans), annuities, and IRA distributions.
- Military retirement.
- Gambling winnings.
- Indian gaming profits.
- Certain government payments on which the recipient elected voluntary income tax withholding.
- Dividends and other distributions by an ANC on which the recipient elected voluntary income tax withholding.
- Payments subject to backup withholding.

For details on depositing and reporting nonpayroll income tax withholding, see the Instructions for Form 945.

Employer Responsibilities The following list provides a brief summary of your basic responsibilities. Because the individual circumstances for each employer can vary greatly, responsibilities for withholding, depositing, and reporting employment taxes can differ. Each item in this list has a page reference to a more detailed discussion in this publication.

New Employees:		Page	Annually (see Calendar for due dates):		Page
<input type="checkbox"/>	Verify work eligibility of new employees	6	<input type="checkbox"/>	File Form 944 if required (pay tax with return if not required to deposit)	36
<input type="checkbox"/>	Record employees' names and SSNs from social security cards	6	<input type="checkbox"/>	Remind employees to submit a new Form W-4 if they need to change their withholding	24
<input type="checkbox"/>	Ask employees for Form W-4	6	<input type="checkbox"/>	Ask for a new Form W-4 from employees claiming exemption from income tax withholding	25
Each Payday:			<input type="checkbox"/>	Reconcile Forms 941 (Form 943 or Form 944) with Forms W-2 and W-3	38
<input type="checkbox"/>	Withhold federal income tax based on each employee's Form W-4	24	<input type="checkbox"/>	Furnish each employee a Form W-2	10
<input type="checkbox"/>	Withhold employee's share of social security and Medicare taxes	27	<input type="checkbox"/>	File Copy A of Forms W-2 and the transmittal Form W-3 with the SSA	10
<input type="checkbox"/>	Deposit:		<input type="checkbox"/>	Furnish each payee a Form 1099 (for example, Form 1099-NEC)	10
	• Withheld income tax,		<input type="checkbox"/>	File Forms 1099 and the transmittal Form 1096	10
	• Withheld and employer social security taxes, and		<input type="checkbox"/>	File Form 940	10
	• Withheld and employer Medicare taxes	30	<input type="checkbox"/>	File Form 945 for any nonpayroll income tax withholding	10
Note. Due date of deposit generally depends on your deposit schedule (monthly or semiweekly).					
Quarterly (By April 30, July 31, October 31, and January 31):					
<input type="checkbox"/>	Deposit FUTA tax if undeposited amount is over \$500	43			
<input type="checkbox"/>	File Form 941 (pay tax with return if not required to deposit)	36			

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Distributions from nonqualified pension plans and deferred compensation plans.

Because distributions to participants from some nonqualified pension plans and deferred compensation plans (including section 457(b) plans of tax-exempt organizations) are treated as wages and are reported on Form W-2, income tax withheld must be reported on Form 941, Form 943, or Form 944, not on Form 945. However, distributions from such plans to a beneficiary or estate of a deceased employee aren't wages and are reported on Forms 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.; income tax withheld must be reported on Form 945.

Backup withholding. You must generally withhold 24% of certain taxable payments if the payee fails to furnish you with their correct TIN. This withholding is referred to as "backup withholding."

Payments subject to backup withholding include interest, dividends, patronage dividends, rents, royalties, commissions, nonemployee compensation, payments made in settlement of payment card or third-party network transactions, and certain other payments you make in the course of your trade or business. In addition, transactions by brokers and barter exchanges and certain payments made by fishing boat operators are subject to backup withholding.



Backup withholding doesn't apply to wages, pensions, annuities, IRAs (including simplified employee pension (SEP) and SIMPLE retirement plans), section 404(k) distributions from an employee stock ownership plan (ESOP), medical savings accounts (MSAs), health savings accounts (HSAs), long-term-care benefits, or real estate transactions.

You can use Form W-9 to request payees to furnish a TIN. Form W-9 must be used when

payees must certify that the number furnished is correct, or when payees must certify that they're not subject to backup withholding or are exempt from backup withholding. The Instructions for the Requester of Form W-9 include a list of types of payees who are exempt from backup withholding. For more information, see Pub. 1281, Backup Withholding for Missing and Incorrect Name/TIN(s).

Recordkeeping

Keep all records of employment taxes for at least 4 years. These should be available for IRS review. Your records should include the following information.

- Your EIN.
- Amounts and dates of all wage, annuity, and pension payments.
- Amounts of tips reported to you by your employees.

- Records of allocated tips.
- The fair market value (FMV) of in-kind wages paid.
- Names, addresses, SSNs, and occupations of employees and recipients.
- Any employee copies of Forms W-2 and W-2c returned to you as undeliverable.
- Dates of employment for each employee.
- Periods for which employees and recipients were paid while absent due to sickness or injury and the amount and weekly rate of payments you or third-party payers made to them.
- Copies of employees' and recipients' income tax withholding certificates (Forms W-4, W-4P, W-4R, W-4S, and W-4V).
- Dates and amounts of tax deposits you made and acknowledgment numbers for deposits made by EFTPS.

- Copies of returns filed and confirmation numbers.
- Records of fringe benefits and expense reimbursements provided to your employees, including substantiation.
- Documentation to substantiate any credits claimed. Records related to qualified sick leave wages and qualified family leave wages for leave taken after March 31, 2021, and before October 1, 2021, and records related to qualified wages for the employee retention credit paid after June 30, 2021, should be kept for at least 6 years. For more information on substantiation requirements, go to [IRS.gov/PLC](https://www.irs.gov/PLC) and [IRS.gov/ERC](https://www.irs.gov/ERC).
- Documentation to substantiate the amount of any employer or employee share of social security tax that you deferred and paid for 2020.

If a crew leader furnished you with farmworkers, you must keep a record of the name, permanent mailing address, and EIN of the crew leader. If the crew leader has no permanent mailing address, record their present address.

Change of Business Name

Notify the IRS immediately if you change your business name. Write to the IRS office where you file your returns, using the *Without a payment* address provided in the instructions for your employment tax return, to notify the IRS of any business name change. See Pub. 1635 to see if you need to apply for a new EIN.

Change of Business Address or Responsible Party

Notify the IRS immediately if you change your business address or responsible party. Complete and mail Form 8822-B to notify the IRS of a business address or responsible

party change. For a definition of “responsible party,” see the Instructions for Form SS-4.

Filing Addresses

Generally, your filing address for Form 940, 941, 943, 944, 945, or CT-1 depends on the location of your residence or principal place of business and whether or not you’re including a payment with your return. There are separate filing addresses for these returns if you’re a tax-exempt organization or government entity. See the separate instructions for Form 940, 941, 943, 944, 945, or CT-1 for the filing addresses.

Private Delivery Services (PDSs)

You can use certain PDSs designated by the IRS to meet the “timely mailing as timely filing” rule for tax returns. Go to [IRS.gov/PDS](https://www.irs.gov/PDS) for the current list of PDSs.

The PDS can tell you how to get written proof of the mailing date.

For the IRS mailing address to use if you're using a PDS, go to [IRS.gov/PDSstreetAddresses](https://www.irs.gov/PDSstreetAddresses). Select the mailing address listed on the webpage that is in the same state as the address to which you would mail returns filed without a payment, as shown in the instructions for your employment tax return.



PDSs can't deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.

Dishonored Payments

Any form of payment that is dishonored and returned from a financial institution is subject to a penalty. The penalty is \$25 or 2% of the payment, whichever is more. However, the penalty on dishonored payments of \$24.99 or less is an amount equal to the payment. For example, a dishonored payment of \$18 is charged a penalty of \$18.

E-News for Payroll Professionals

The IRS has a subscription-based email service for payroll professionals. Subscribers will receive periodic updates from the IRS.

The updates may include information regarding recent legislative changes affecting federal payroll reporting, IRS news releases and special announcements pertaining to the payroll industry, new employment tax procedures, and other information specifically affecting federal payroll tax returns. To subscribe, go to [IRS.gov/Newsroom/E-News-Subscriptions](https://www.irs.gov/Newsroom/E-News-Subscriptions).

Telephone Help

Tax questions. You can call the IRS Business and Specialty Tax Line with your employment tax questions at 800-829-4933.

Help for people with disabilities. You may call 800-829-4059 (TDD/TTY for persons who are deaf, hard of hearing, or have a speech disability) with any employment tax

questions. You may also use this number for assistance with unresolved tax problems.

Additional information. Go to [IRS.gov/EmploymentTaxes](https://www.irs.gov/employmenttaxes) for additional employment tax information. For general tax information relevant to agricultural employers, go to [IRS.gov/AgricultureTaxCenter](https://www.irs.gov/AgricultureTaxCenter). For information about employer responsibilities under the Affordable Care Act, go to [IRS.gov/ACA](https://www.irs.gov/ACA). For information about COVID-19 tax relief, go to [IRS.gov/Coronavirus](https://www.irs.gov/Coronavirus).

Ordering Employer Tax Forms, Instructions, and Publications

You can view, download, or print most of the forms, instructions, and publications you may need at [IRS.gov/Forms](https://www.irs.gov/forms). Otherwise, you can go to [IRS.gov/OrderForms](https://www.irs.gov/orderforms) to place an order and have them mailed to you. The IRS will process your order as soon as possible. Don't resubmit requests you've already sent us. You

can get forms, instructions, and publications faster online.

Instead of ordering paper Forms W-2 and W-3, consider filing them electronically using the SSA's free *e-file* service. Go to the SSA's Employer W-2 Filing Instructions & Information webpage at [SSA.gov/employer](https://ssa.gov/employer) to register for Business Services Online (BSO). You'll be able to create Forms W-2 online and submit them to the SSA by typing your wage information into easy-to-use fill-in fields. In addition, you can print out completed copies of Forms W-2 to file with state or local governments, distribute to your employees, and keep for your records. Form W-3 will be created for you based on your Forms W-2.

The SSA's BSO is an independent program from the Government of Puerto Rico electronic filing system. Employers in Puerto Rico must visit Hacienda.gobierno.pr for additional information.

Photographs of Missing Children

The IRS is a proud partner with the [National Center for Missing & Exploited Children® \(NCMEC\)](#). Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

Calendar

The following is a list of important dates and responsibilities. The dates listed here haven't been adjusted for Saturdays, Sundays, and legal holidays (see the TIP next). Pub. 509, Tax Calendars (for use in 2024), adjusts the dates for Saturdays, Sundays, and legal holidays. See section 11 for information about depositing taxes reported on Forms 941, 943, 944, and 945. See section 14 for information about depositing FUTA tax. Due dates for

forms required for health coverage reporting aren't listed here. For these dates, see Pub. 509.



If any date shown next for filing a return, furnishing a form, or depositing taxes falls on a Saturday, Sunday, or legal holiday, the due date is the next business day. The term "legal holiday" means any legal holiday in the District of Columbia. A statewide legal holiday delays a filing due date only if the IRS office where you're required to file is located in that state. However, a statewide legal holiday doesn't delay the due date of federal tax deposits. See Deposits Due on Business Days Only in section 11. For any filing due date, you'll meet the "file" or "furnish" requirement if the envelope containing the return or form is properly addressed, contains sufficient postage, and is postmarked by the U.S. Postal Service on or before the due date, or sent by an IRS-designated PDS on or before the due

date. See Private Delivery Services (PDSs) under Reminders, earlier, for more information.

Fiscal year taxpayers. The due dates listed next apply whether you use a calendar or a fiscal year.

By January 31

File Form 941 or Form 944. File Form 941 for the fourth quarter of the previous calendar year and deposit any undeposited income, social security, and Medicare taxes. You may pay these taxes with Form 941 if your total tax liability for the quarter (Form 941, line 12) is less than \$2,500. File Form 944 for the previous calendar year instead of Form 941 if the IRS has notified you in writing to file Form 944. Pay any undeposited income, social security, and Medicare taxes with your Form 944.

You may pay these taxes with Form 944 if your total tax liability for the year (Form 944,

line 9) is less than \$2,500. For additional rules on when you can pay your taxes with your return, see *Payment with return* in section 11. If you timely deposited all taxes when due, you may file by February 10.

File Form 943. Agricultural employers file Form 943 for the previous calendar year and deposit any undeposited income, social security, and Medicare taxes. You may pay these taxes with Form 943 if your total tax liability for the year (Form 943, line 13) is less than \$2,500. If you timely deposited all taxes when due, you may file by February 10.

File Form 945. File Form 945 to report any nonpayroll federal income tax withheld. If you deposited all taxes when due, you may file by February 10. See *Nonpayroll Income Tax Withholding* under *Reminders*, earlier, for more information.

File Form 940. File Form 940 to report any FUTA tax. However, if you deposited all of the FUTA tax when due, you may file by February

10. See section 14 for more information on FUTA tax.

Furnish Forms 1099 and W-2. Furnish each employee a completed 2023 Form W-2. Furnish a 2023 Form 1099-NEC to payees for nonemployee compensation. Most Forms 1099 must be furnished to payees by January 31, but some can be furnished by February 15. For more information, see the *Guide to Information Returns* chart in the General Instructions for Certain Information Returns.

File Form W-2. File with the SSA Copy A of all 2023 paper and electronic Forms W-2 with Form W-3, Transmittal of Wage and Tax Statements. Forms W-2AS, W-2CM, W-2GU, and W-2VI are filed with Form W-3SS. Forms 499R-2/W-2PR are filed with Form W-3PR. For more information on reporting Form W-2 information to the SSA electronically, go to the SSA's Employer W-2 Filing Instructions & Information webpage at [SSA.gov/ employer](https://ssa.gov/employer). If filing electronically, via the SSA's Form W-2

Online service, the SSA will generate Form W-3 data from the electronic submission of Form(s) W-2.

Send Copy 1 of Forms W-2AS, W-2CM, W-2GU, and W-2VI, and Form W-3SS to your local tax department at the address shown on Form W-3SS. For more information on Copy 1, contact your local tax department.

Employers in the CNMI should contact their local tax department for instructions on how to file Copy 1. For additional information on how to file Forms 499R-2/W-2PR with the Puerto Rico Department of Treasury, go to [Hacienda.gobierno.pr](https://www.hacienda.gobierno.pr) or call 787-622-0123.

File Form 1099-NEC reporting nonemployee compensation. File with the IRS Copy A of all 2023 paper and electronic Forms 1099-NEC. Paper forms must be filed with Form 1096, Annual Summary and Transmittal of U.S. Information Returns. For information on filing information returns electronically with the IRS, see Pub. 1220,

Specifications for Electronic Filing of Forms 1097, 1098, 1099, 3921, 3922, 5498, and W-2G.

By February 15

Request a new Form W-4 from exempt employees. Ask for a new Form W-4 from each employee who claimed exemption from income tax withholding last year.

On February 16

Forms W-4 claiming exemption from withholding expire. Any Form W-4 claiming exemption from withholding for the previous year has now expired. Begin withholding for any employee who previously claimed exemption from withholding but hasn't given you a new Form W-4 for the current year. If the employee doesn't give you a new Form W-4, withhold tax as if they had checked the box for Single or Married filing separately in Step 1(c) and made no entries in Step 2, Step 3, or Step 4 of the 2024 Form W-4. See

section 9 for more information. If the employee gives you a new Form W-4 claiming exemption from withholding after February 15, you may apply the exemption to future wages, but don't refund taxes withheld while the exempt status wasn't in place.

By February 28

File paper 2023 Forms 1099 and 1096.

File Copy A of all paper 2023 Forms 1099, except Forms 1099-NEC, with Form 1096 with the IRS. For electronically filed returns, see By March 31, later.

By February 29

File paper Form 8027. File paper Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, with the IRS. See section 6. For electronically filed returns, see By March 31 next.

By March 31

File electronic 2023 Forms 1099 and 8027. File electronic 2023 Forms 1099, except Forms 1099-NEC, with the IRS. Also file electronic Form 8027 with the IRS. For information on filing information returns electronically with the IRS, see Pub. 1220 and Pub. 1239, Specifications for Electronic Filing of Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips.

By April 30, July 31, October 31, and January 31

Deposit FUTA taxes. Deposit FUTA tax for the quarter (including any amount carried over from other quarters) if over \$500. If \$500 or less, carry it over to the next quarter. See section 14 for more information.

File Form 941. File Form 941 and deposit any undeposited income, social security, and Medicare taxes. You may pay these taxes with Form 941 if your total tax liability for the

quarter (Form 941, line 12) is less than \$2,500. If you timely deposited all taxes when due, you may file by May 10, August 10, November 10, or February 10, respectively. Don't file Form 941 for these quarters if you have been notified to file Form 944 and you didn't request and receive written notice from the IRS to file quarterly Forms 941.

Before December 1

New Forms W-4. Remind employees to submit a new Form W-4 if their filing status, other income, deductions, or credits have changed or will change for the next year. Also remind employees to submit a new Form W-4 if they made a mid-year change to their Form W-4 based on their use of the IRS Tax Withholding Estimator available at [IRS.gov/W4App](https://www.irs.gov/W4App). Employees that made a mid-year change may be underwithheld or overwithheld once their Form W-4 is applied to the next full calendar year.

Introduction

This publication explains your tax responsibilities as an employer, including agricultural employers and employers whose principal place of business is in American Samoa, Guam, the CNMI, the USVI, or Puerto Rico. It explains the requirements for withholding, depositing, reporting, paying, and correcting employment taxes. It explains the forms you must give to your employees, those your employees must give to you, and those you must send to the IRS and the SSA. References to "income tax" in this guide apply only to federal income tax. Contact your state or local tax department to determine their rules. Whenever the term "United States" is used in this publication, it includes American Samoa, Guam, the CNMI, the USVI, and Puerto Rico, unless otherwise noted.

When you pay your employees, you don't pay them all the money they earned. As their employer, you have the added responsibility

of withholding taxes from their paychecks. The federal income tax and employees' share of social security and Medicare taxes that you withhold from your employees' paychecks are part of their wages that you pay to the U.S. Treasury instead of to your employees. Your employees trust that you pay the withheld taxes to the U.S. Treasury by making federal tax deposits. This is the reason that these withheld taxes are called trust fund taxes. If federal income, social security, or Medicare taxes that must be withheld aren't withheld or aren't deposited or paid to the U.S. Treasury, the trust fund recovery penalty may apply. See section 11 for more information.

This publication also provides employers, including employers in the USVI and Puerto Rico, with a summary of their responsibilities in connection with the tax under the Federal Unemployment Tax Act, known as FUTA tax. See section 14 for more information.

Additional employment tax information is available in Pubs. 15-A, 15-B, and 15-T. Pub. 15-A includes specialized information supplementing the basic employment tax information provided in this publication. Pub. 15-B, Employer's Tax Guide to Fringe Benefits, contains information about the employment tax treatment and valuation of various types of noncash compensation. Pub. 15-T includes the federal income tax withholding tables and instructions on how to use the tables.

Most employers must withhold (except FUTA), deposit, report, and pay the following employment taxes.

- Income tax.
- Social security tax.
- Medicare tax.
- FUTA tax.

There are exceptions to these requirements. See section 15 for guidance. Railroad retirement taxes are explained in the Instructions for Form CT-1.

Comments and suggestions. We welcome your comments about this publication and suggestions for future editions.

You can send us comments through [IRS.gov/FormComments](https://www.irs.gov/FormComments).

Or, you can write to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Although we can't respond individually to each comment received, we do appreciate your feedback and will consider your comments and suggestions as we revise our tax forms, instructions, and publications.

Don't send tax questions, tax returns, or payments to the above address.

Getting answers to your tax questions. If you have a tax question not answered by this publication, check IRS.gov and *How To Get Tax Help* at the end of this publication.

Getting tax forms, instructions, and publications. Go to [IRS.gov/Forms](https://www.irs.gov/forms) to download current and prior-year forms, instructions, and publications.

Ordering tax forms, instructions, and publications. Go to [IRS.gov/OrderForms](https://www.irs.gov/orderforms) to order current forms, instructions, and publications; call 800-829-3676 to order prior-year forms and instructions. The IRS will process your order for forms and publications as soon as possible. **Don't** resubmit requests you've already sent us. You can get forms and publications faster online.

Federal government employers. The information in this publication, including the rules for making federal tax deposits, applies to federal agencies.

State and local government employers.

Payments to employees for services in the employ of state and local government employers are generally subject to federal income tax withholding but not FUTA tax. Most elected and appointed public officials of state or local governments are employees under common-law rules. See chapter 3 of Pub. 963, Federal-State Reference Guide. In addition, wages, with certain exceptions, are subject to social security and Medicare taxes. See section 15 for more information on the exceptions.

If an election worker is employed in another capacity with the same government entity, see Revenue Ruling 2000-6 on page 512 of Internal Revenue Bulletin 2000-6 at [IRS.gov/pub/irs-irbs/irb00-06.pdf](https://www.irs.gov/pub/irs-irbs/irb00-06.pdf).

You can get information on reporting and social security coverage from your local IRS office. If you have any questions about coverage under a section 218 (Social Security

Act) agreement, contact the appropriate state official. To find your State Social Security Administrator, go to the National Conference of State Social Security Administrators website at NCSSSA.org.

Indian tribal governments. See Pub. 4268 for employment tax information for Indian tribal governments.

Disregarded entities and qualified subchapter S subsidiaries (QSubs).

Eligible single-owner disregarded entities and QSubs are treated as separate entities for employment tax purposes. Eligible single-member entities must report and pay employment taxes on wages paid to their employees using the entities' own names and EINs. See Regulations sections 1.1361-4(a)(7) and 301.7701-2(c)(2)(iv).

Useful Items

You may want to see:

Publication

- ☐ **15-A** Employer's Supplemental Tax Guide
- ☐ **15-B** Employer's Tax Guide to Fringe Benefits
- ☐ **15-T** Federal Income Tax Withholding Methods
- ☐ **225** Farmer's Tax Guide
- ☐ **535** Business Expenses
- ☐ **583** Starting a Business and Keeping Records
- ☐ **1635** Employer Identification Number: Understanding Your EIN

1. Employer Identification Number (EIN)

If you're required to report employment taxes or give tax statements to employees or annuitants, you need an EIN.

The EIN is a nine-digit number the IRS issues. The digits are arranged as follows: 00-0000000. It is used to identify the tax accounts of employers and certain others who have no employees. Use your EIN on all of the items you send to the IRS and the SSA. For more information, see Pub. 1635.

If you don't have an EIN, you may apply for one online by going to [IRS.gov/EIN](https://www.irs.gov/ein). You may also apply for an EIN by faxing or mailing Form SS-4 to the IRS. If the principal business was created or organized outside of the United States or U.S. territories, you may also apply for an EIN by calling 267-941-1099 (toll call). Don't use an SSN in place of an EIN.

You should have only one EIN. If you have more than one and aren't sure which one to use, call 800-829-4933 or 800-829-4059 (TDD/TTY for persons who are deaf, hard of hearing, or have a speech disability). Give the numbers you have, the name and address to

which each was assigned, and the address of your main place of business. The IRS will tell you which number to use. For more information, see Pub. 1635.

If you took over another employer's business (see Successor employer in section 9), don't use that employer's EIN. If you've applied for an EIN but don't have your EIN by the time a return is due, file a paper return and enter "Applied For" and the date you applied for it in the space shown for the number.



Always be sure the EIN on the form you file exactly matches the EIN the IRS assigned to your business. Don't use your SSN or individual taxpayer identification number (ITIN) on forms that ask for an EIN. If you used an EIN (including a prior owner's EIN) on Form 941, Form 943, or Form 944, that is different from the EIN reported on Form W-3, see Box h—Other EIN used this year in the General Instructions for Forms W-2 and W-3. On Form W-3PR for

Puerto Rico, "Other EIN used this year" is reported in box f. The name and EIN on Form 945 must match the name and EIN on your information returns where federal income tax withholding is reported (for example, backup withholding reported on Form 1099-NEC). Filing a Form 945 with an incorrect EIN or using another business's EIN may result in penalties and delays in processing your return.

Agricultural employers that have crew leaders. An agricultural employer must record the crew leader's name, address, and EIN. See sections 2 and 14.

2. Who Are Employees?

Generally, employees are defined either under common law or under statutes for certain situations. See Pub. 15-A for details on statutory employees and nonemployees.

Employee status under common law.

Generally, a worker who performs services for you is your employee if you have the right to control what will be done and how it will be done. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed. See Pub. 15-A for more information on how to determine whether an individual providing services is an independent contractor or an employee.

Generally, people in business for themselves aren't employees. For example, doctors, lawyers, veterinarians, and others in an independent trade in which they offer their services to the public are usually not employees. If the business is incorporated, corporate officers who work in the business are employees of the corporation.

If an employer-employee relationship exists, it doesn't matter what it is called. The

employee may be called an agent or independent contractor. It also doesn't matter how payments are measured or paid, what they're called, or if the employee works full or part time.

Statutory employees. If someone who works for you isn't an employee under the common-law rules discussed earlier, don't withhold federal income tax from their pay, unless backup withholding applies. Although the following persons may not be common-law employees, they're considered employees by statute for social security and Medicare tax purposes if the conditions under Tests, later, are met.

- a. An agent or commission driver who delivers meat, vegetable, fruit, or bakery products; beverages (other than milk); laundry; or dry cleaning for someone else.
- b. A full-time life insurance salesperson who sells primarily for one company.

- c. A homeworker who works at home or off premises by the guidelines of the person for whom the work is done, with materials or goods furnished by and returned to that person or to someone that person designates.
- d. A traveling or city salesperson (other than an agent or commission driver) who works full time (except for sideline sales activities) for one firm or person getting orders from customers. The orders must be for merchandise for resale or supplies for use in the customer's business. The customers must be retailers, wholesalers, contractors, or operators of hotels, restaurants, or other businesses dealing with food or lodging.

Tests. Withhold social security and Medicare taxes from statutory employees' wages if all three of the following tests apply.

1. The service contract states or implies that almost all of the services are to be performed personally by them.
2. They have little or no investment in the equipment and property used to perform the services (other than an investment in transportation facilities).
3. The services are performed on a continuing basis for the same payer.

Persons in *a* or *d*, earlier, are also employees for FUTA tax purposes if tests 1 through 3 are met.

Pub. 15-A gives examples of the employer-employee relationship.

Statutory nonemployees. Direct sellers, qualified real estate agents, and certain companion sitters are, by law, considered nonemployees. They're generally treated as self-employed for all federal tax purposes, including income and employment taxes. See Pub. 15-A for more information.

Farmworkers. In general, you're an employer of farmworkers if your employees:

- Raise or harvest agricultural or horticultural products on your farm (including the raising and feeding of livestock);
- Work in connection with the operation, management, conservation, improvement, or maintenance of your farm and its tools and equipment, if the major part of such service is performed on a farm;
- Provide services relating to salvaging timber, or clearing land of brush and other debris, left by a hurricane (also known as hurricane labor), if the major part of such service is performed on a farm;
- Handle, process, or package any agricultural or horticultural commodity in its unmanufactured state if you produced over half of the commodity (for a group of

up to 20 unincorporated operators, all of the commodity); or

- Do work for you related to cotton ginning, turpentine, gum resin products, or the operation and maintenance of irrigation facilities.

For this purpose, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, as well as plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

Farmwork doesn't include reselling activities that don't involve any substantial activity of raising agricultural or horticultural commodities, such as a retail store or a greenhouse used primarily for display or storage. It also doesn't include processing services which change a commodity from its raw or natural state, or services performed

after a commodity has been changed from its raw or natural state.

Crew leaders. If you're a crew leader, you're an employer of farmworkers. A crew leader is a person who furnishes and pays (either on their own behalf or on behalf of the farm operator) workers to do farmwork for the farm operator. If there is no written agreement between you and the farm operator stating that you're their employee and if you pay the workers (either for yourself or for the farm operator), then you're a crew leader. For FUTA tax rules, see section 14.

If you're a crew leader, you're not considered the employee of the farm operator for services you perform in furnishing farmworkers and as a member of the crew.

H-2A agricultural workers. On Form W-2, don't check box 13 (Statutory employee), as H-2A workers aren't statutory employees.

Treating employees as nonemployees.

You'll generally be liable for social security and Medicare taxes and withheld income tax if you don't deduct and withhold these taxes because you treated an employee as a nonemployee. You may be able to figure your liability using special section 3509 rates for the employee share of social security and Medicare taxes and federal income tax withholding. The applicable rates depend on whether you filed required Forms 1099. You can't recover the employee share of social security tax, Medicare tax, or income tax withholding from the employee if the tax is paid under section 3509. You're liable for the income tax withholding regardless of whether the employee paid income tax on the wages. You continue to owe the full employer share of social security and Medicare taxes. The employee remains liable for the employee share of social security and Medicare taxes. See section 3509 for details. Also see the Instructions for Form 941-X, the Instructions

for Form 943-X, or the Instructions for Form 944-X.

Section 3509 rates aren't available if you intentionally disregard the requirement to withhold taxes from the employee or if you withheld income taxes but not social security or Medicare taxes. Section 3509 isn't available for reclassifying statutory employees. See Statutory employees, earlier in this section.

If the employer issued required information returns, the section 3509 rates are the following.

- For social security taxes: employer rate of 6.2% plus 20% of the employee rate of 6.2%, for a total rate of 7.44% of wages.
- For Medicare taxes: employer rate of 1.45% plus 20% of the employee rate of 1.45%, for a total rate of 1.74% of wages.

- For Additional Medicare Tax: 0.18% (20% of the employee rate of 0.9%) of wages subject to Additional Medicare Tax.
- For federal income tax withholding, the rate is 1.5% of wages.

If the employer didn't issue required information returns, the section 3509 rates are the following.

- For social security taxes: employer rate of 6.2% plus 40% of the employee rate of 6.2%, for a total rate of 8.68% of wages.
- For Medicare taxes: employer rate of 1.45% plus 40% of the employee rate of 1.45%, for a total rate of 2.03% of wages.
- For Additional Medicare Tax: 0.36% (40% of the employee rate of 0.9%) of wages subject to Additional Medicare Tax.
- For federal income tax withholding, the rate is 3.0% of wages.

Relief provisions. If you have a reasonable basis for not treating a worker as an employee, you may be relieved from having to pay employment taxes for that worker. To get this relief, you must file all required federal tax returns, including information returns, on a basis consistent with your treatment of the worker. You (or your predecessor) must not have treated any worker holding a substantially similar position as an employee for any periods beginning after 1977. See Pub. 1976, Do You Qualify for Relief Under Section 530.

IRS help. If you want the IRS to determine whether a worker is an employee, file Form SS-8.

Voluntary Classification Settlement Program (VCSP). Employers who are currently treating their workers (or a class or group of workers) as independent contractors or other nonemployees and want to voluntarily reclassify their workers as

employees for future tax periods may be eligible to participate in the VCSP if certain requirements are met. File Form 8952 to apply for the VCSP. For more information, go to [IRS.gov/VCSP](https://www.irs.gov/VCSP).

Business Owned and Operated by Spouses

If you and your spouse jointly own and operate a business and share in the profits and losses, you may be partners in a partnership, whether or not you have a formal partnership agreement. See Pub. 541 for more details. The partnership is considered the employer of any employees, and is liable for any employment taxes due on wages paid to its employees.

Exception—Qualified joint venture. For tax years beginning after 2006, the Small Business and Work Opportunity Tax Act of 2007 (P.L. 110-28) provides that a “qualified joint venture,” whose only members are

spouses filing a joint income tax return, can elect not to be treated as a partnership for federal tax purposes. A qualified joint venture conducts a trade or business where:

- The only members of the joint venture are spouses who file a joint income tax return,
- Both spouses materially participate (see *Material participation* in the instructions for Schedule C (Form 1040), line G) in the trade or business (mere joint ownership of property isn't enough),
- Both spouses elect to not be treated as a partnership, and
- The business is co-owned by both spouses and isn't held in the name of a state law entity such as a partnership or limited liability company (LLC).

To make the election, all items of income, gain, loss, deduction, and credit must be divided between the spouses, in accordance with each spouse's interest in the venture,

and reported as sole proprietors on a separate Schedule C (Form 1040) or Schedule F (Form 1040). Each spouse must also file a separate Schedule SE (Form 1040) to pay self-employment taxes, as applicable. See the Instructions for Form 1040-SS for American Samoa, Guam, the CNMI, the USVI, and Puerto Rico.

Spouses using the qualified joint venture rules are treated as sole proprietors for federal tax purposes and generally don't need an EIN. If employment taxes are owed by the qualified joint venture, either spouse may report and pay the employment taxes due on the wages paid to the employees using the EIN of that spouse's sole proprietorship.

Generally, filing as a qualified joint venture won't increase the spouses' total tax owed on the joint income tax return. However, it gives each spouse credit for social security earnings on which retirement benefits are based and

for Medicare coverage without filing a partnership return.

Note. If your spouse is your employee, not your partner, see *One spouse employed by another* in section 3. For more information on qualified joint ventures, go to [IRS.gov/QJV](https://www.irs.gov/QJV).

Exception—Community income. If you and your spouse wholly own an unincorporated business as community property under the community property laws of a state, foreign country, or U.S. territory, you can treat the business either as a sole proprietorship (of the spouse who carried on the business) or a partnership. You may still make an election to be taxed as a qualified joint venture instead of a partnership. See *Exception—Qualified joint venture*, earlier in this section.

3. Family Employees

Child employed by parents. Payments for the services of a child under age 18 who

works for their parent in a trade or business aren't subject to social security and Medicare taxes if the trade or business is a sole proprietorship or a partnership in which each partner is a parent of the child. If these payments are for work other than in a trade or business, such as domestic work in the parent's private home, they're not subject to social security and Medicare taxes until the child reaches age 21. However, see Covered services of a child or spouse, later. Payments for the services of a child under age 21 who works for their parent, whether or not in a trade or business, aren't subject to FUTA tax. Payments for the services of a child of any age who works for their parent are generally subject to income tax withholding unless the payments are for domestic work in the parent's home, or unless the payments are for work other than in a trade or business and are less than \$50 in the quarter or the child isn't regularly employed to do such work.

One spouse employed by another. The wages for the services of an individual who works for their spouse in a trade or business are subject to income tax withholding and social security and Medicare taxes, but not to FUTA tax. However, the payments for services of one spouse employed by another in other than a trade or business, such as domestic service in a private home, aren't subject to social security, Medicare, and FUTA taxes.

Covered services of a child or spouse.

The wages for the services of a child or spouse are subject to income tax withholding as well as social security, Medicare, and FUTA taxes if they work for:

- A corporation, even if it is controlled by the child's parent or the individual's spouse;
- A partnership, even if the child's parent is a partner, unless each partner is a parent of the child;

- A partnership, even if the individual's spouse is a partner; or
- An estate, even if it is the estate of a deceased parent.

In these situations, the child or spouse is considered to work for the corporation, partnership, or estate, not you.

Parent employed by their child. When the employer is a child employing their parent, the following rules apply.

- Payments for the services of a parent in their child's (the employer's) trade or business are subject to income tax withholding and social security and Medicare taxes.
- Payments for the services of a parent not in their child's (the employer's) trade or business are generally not subject to social security and Medicare taxes.



Social security and Medicare taxes do apply to payments made to a parent for domestic services if all of the following apply.

- The parent is employed by their child (the employer).
- The employer has a child or stepchild (including an adopted child) living in the home.
- The employer is a surviving spouse, divorced and not remarried, or living with a spouse who, because of a mental or physical condition, can't care for their child or stepchild for at least 4 continuous weeks in the calendar quarter in which the service is performed.
- The child or stepchild of the employer is either under age 18 or, due to a mental or physical condition, requires the personal care of an adult for at least 4 continuous

weeks in the calendar quarter in which the service is performed.

Payments made to a parent employed by their child aren't subject to FUTA tax, regardless of the type of services provided.

4. Employee's Social Security Number (SSN)

You're required to get each employee's name and SSN and to enter them on Form W-2. An employee's SSN consists of nine digits arranged as follows: 000-00-0000. This requirement also applies to resident and nonresident alien employees. You should ask your employee to show you their social security card, but the employee isn't required to show the card if it isn't available. However, if an employee can't provide their social security card, you should verify their SSN and their eligibility for employment as discussed later in this section under Verification of SSNs.